

LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
Second Session — Nineteenth Legislature

Friday, June 6, 1980.

The Assembly met at 10 a.m.
On the Orders of the Day

WELCOME TO STUDENTS

MR. A.S. MATSALLA (Canora) — Mr. Speaker, I would like to take this opportunity to introduce 15 young men and women from my constituency. They are the Grade 8 students of the Endeavour School. Accompanying them is their teacher, Dennis Thiessen, and his wife, Sarah, as well as bus driver, Morris Schur. This group arrived in our capital city yesterday; they have visited a number of places of interest in the capital city and this morning are taking the opportunity of being with us here in the Chamber. I want to wish the group a very fine and enjoyable day, and I do hope they have a safe trip home, and pleasant memories of their trip.

HON. MEMBERS: Hear, hear!

MR. C.O. WHITE (Regina Wascana): — Mr. Speaker, I would like to add to the greetings of my colleague, the member for Canora. The students come from the community in which I grew up, Endeavour, a very fine place. I have very many fond memories of the community. When Morris told me the families they were from, I know many of their parents. I do hope I can chat with them a bit. If not now, I expect to see some of them on June 28-29 when the Lilian Valley Celebrate Saskatchewan affair at Endeavour is on. I want particularly to introduce to the members, a friend from years gone by, Morris Schur. His son, Lyle is with him. I've known Morris since I was able to know anyone; his younger brother and sister were very good friends of mine. I spent many pleasant hours at his home. Like all homes in Endeavour at that time, it was a poor home but a very nice one to be in. Morris, I might add, was one of the fellows who left Endeavour and spent about five years overseas in the Second World War. It's very nice to see you here, Morris.

I hope everyone will welcome Morris and the group to the legislature. Thank you.

HON. MEMBERS: Hear, hear!

HON. D.W. CODY (Kinistino): — Mr. Speaker, it is a great pleasure today for me to have the opportunity to introduce to you and to the members of the legislature, 27 Grade 11 and 12 students from St. Isadore de Belleveu High School in St. Isadore de Belleveu, Saskatchewan. They are here today, accompanied by three Sisters, Sister Michelle Blanchett, Sister Therese Tarault, and Sister Aline Couture.

I want to tell the House that this is a very special little community. It's a community with basically all French-speaking people, and a very highly cultured community — one which probably is one of the closest-knit communities in this province.

I want to ask all of the members to welcome the students and their teachers here today, as well as the bus driver who has brought them to Regina. I know they are going to have a busy day today, and we hope they have a very successful day in Regina, our capital, and a safe trip home.

HON. MEMBERS: Hear, hear!

QUESTIONS

Conflict of Interest re Senior Civil Servants

MR. W.C. THATCHER (Thunder Creek): — Mr. Speaker, a question to the minister in charge of culture and youth. Mr. Minister, I'm sure you are aware that a swimming pool is being built in what I believe is the constituency of the Premier. I'm sure the minister is aware that the construction company involved is one by the name of Giant Enterprises. I am sure the minister is also aware that two directors on that company hold very highly placed positions within his department. I am sure the minister is also aware of the two individuals involved: one, Glenn Tuck; and one, Mr. Nobes. I'm sure the minister is also aware that the entire matter is under investigation. You have announced already that Mr. Tuck is under suspension for potential conflict of interest. Would the minister tell me, and tell the Assembly today, why Mr. Tuck has been suspended and why Mr. Nobes, who is a facility consultant, a very highly placed position, and who holds the same number of shares in Giant Enterprises as Mr. Tuck, has not also been suspended?

HON. E.B. SHILLINGTON (Minister of Culture and Youth): — Well, Mr. Speaker, I'm not sure I quite followed that last question. Both Mr. Tuck and Mr. Nobes have been suspended as a result of allegations involving conflict of interest. The matter is under investigation by the RCMP. I think I should say no more, Mr. Speaker, since the matter is under investigation. I think I should not go further and outline for the member's benefit the various details of the allegations. It is under investigation by the RCMP. I'm sure they are doing their job as thoroughly and competently as they can, and we await their report.

MR. THATCHER: — Supplementary question to the Premier. Mr. Premier, on numerous occasions you have been asked by a variety of members on this side, specifically by me on at least three occasions, whether your government was planning conflict of interest legislation for senior civil servants. I believe on every occasion, Mr. Premier, you indicated that it was not. Mr. Premier, we now have a clear-cut example of an individual who was in charge of the grant structure for culture and youth making a grant to a facility, where the work is going to be done by a company in which he has a very significant interest. My question to you, Mr. Premier, is this: why are you wasting time with conflict of interest for MLAs, who have virtually no power in these matters, when the whole area of senior civil servants, who have a tremendous degree of discretion in these matters, is being totally ignored?

HON. A.E. BLAKENEY (Premier): — Mr. Speaker, I think the reason why additional legislation has not been brought forward to deal with this matter is that the existing legislation seems to be fairly explicit on the matter. I would refer hon. members to section 51 of The Public Service Act, which says that except with the express permission of the commission, which permission may at any time be withdrawn, no employee shall engage in or undertake any business or private practice, or any profession or trade whether as principal or agent. This would seem to cover the situation of the alleged conflict of interest in this case.

MR. THATCHER: — Supplementary question to the Premier then. If the act is as the Premier indicates, may I then ask the Premier why, in the case of Mr. Tuck and Mr. Nobes (and I would point out to the minister that in his interview yesterday he gave no

indication of Mr. Nobes being suspended until this morning, that I'm aware of), the act had not been enforced precisely as the Premier just read it? Because Giant Enterprises, and I am prepared for the Premier's edification to table this if he wishes, shows very clearly that Cecil Nobes and Walter Glenn Wesley Tuck are shareholders of Giant Enterprises, which is doing the work on the swimming pool in your constituency. Why has the letter of the law not been followed and these people summarily dismissed, rather than just being suspended?

MR. BLAKENEY: — Mr. Speaker, with respect to the swimming pool referred to, I have no basis on which to dispute the hon. member's allegations. I simply say it is not a project of the Government of Saskatchewan. It is presumably either a private or a municipal swimming pool, and it could well be for all I know since I'm not informed.

With respect to the other aspect of the question, I have no knowledge as to whether or not steps have been taken to enforce the act when the information that the hon. member refers came to the attention of the public service commission or, indeed, whether it has come to the attention of the public service commission.

MR. R.L. COLLVER (Leader of the Unionest Party): — My supplementary to the Premier is quite simply this: Will the Premier table in this Assembly any and all names of individuals to whom the public service commission has given permission to own shares in private companies dealing with government?

MR. BLAKENEY: — Mr. Speaker, I can take notice of that question. I don't know whether there is any basis upon which that information would not be available. It seems to me the sort of thing that should be available; but I will take notice and ask my colleague, the minister in charge of the public service commission, to reply.

MR. J.G. LANE (Qu'Appelle): — A question to the Premier. This is not the first example. We have tabled two earlier this session, Dan Smith and Frank Buck's agencies. In both of those cases senior civil servants managed to get significant SGI contracts within one day of their opening business. In other words they had inside information. The Premier knows (to continue the preface) that commercial contracts, SGI contracts usually take a long time to negotiate. Does the Premier not feel that, given the information that has been brought forward this session, now is the time for conflict of interest legislation for senior civil servants?

MR. BLAKENEY: — I'm rather confused by that question. I'm not at all sure that the Dan Smith, you refer to, was a public servant. My information is that he wasn't and, therefore, I don't understand why his receiving an SGI agency should upset the hon. member. Perhaps I don't understand the nature of his inquiry with respect to Smith's Agency.

MR. LANE: — Dan Smith was the director of marketing with SGI and managed to get an SGI agency the day after he quit SGI.

MR. BLAKENEY: — Mr. Speaker, that information is certainly not known to me but it would not surprise me particularly if an employee of SGI had an arrangement with the senior staff of SGI that he would leave the employ and become an agent. It wouldn't surprise me at all if that arrangement were made. Perhaps it would upset the hon. members but, as I say, it certainly wouldn't surprise me.

I point out with respect to the matters raised by the member for Thunder Creek, that the

contracts referred to are in no sense, if in fact they were entered into by Mr. Tuck and the other gentleman, contracts with the Government of Saskatchewan or with any of its agencies.

MR. LANE: — A question to the Premier. You very carefully avoided Frank Buck Agency. Frank Buck was your corporate secretary to the potash corporation and Crown investment corporation. He managed to set up an SGI agency and get the commercial insurance contract, which usually takes a long time to design, with the Hotel Saskatchewan the same day that he set up his agency. The Hotel Saskatchewan had been recently purchased by two people, one person heavily involved with the potash corporation. He had inside information and he took advantage of his inside information to get a major commercial contract. Now are you very pointedly responding to that?

MR. BLAKENEY: — It seems to me that it's pretty clear that the people who purchased the hotel were friends of that particular gentleman. There is no question of that. But I would have thought there was very little evidence that the friendship, which undoubtedly matured into a contract, is in any sense something which ought to have been supervised by the Government of Saskatchewan.

MR. LANE: — Supplementary to the Premier. The Premier is aware that the design of a commercial insurance contract often is a lengthily negotiated item . . .

MR. SPEAKER: — If the member has a supplementary I will allow him to go ahead. He is repeating what he said before, which is a preamble and is not necessary on a supplementary.

MR. LANE: — The Premier has not explained, and will he now explain, how an individual (accepting that he is taking advantage of a close friendship) was able to get a complex commercial insurance contract on the same day he started his agency? In other words there was ample work done before on inside information or inside activity. Would the Premier now explain how Frank Buck managed to get a major SGI contract? There can be no publicly-accepted reason other than that he had insider information and took advantage of it.

MR. BLAKENEY: — Mr. Speaker, I have no doubt in the world that he had what you call inside information, in the sense that the people who bought the hotel told him they were going to buy the hotel. That indeed is inside information. They told him what the risks were. For all I know they probably gave him copies of the previous coverage and that is up to the people who bought the hotel. The arrangements with respect to Mr. Buck and SGI have been explained in this House a good number of times by the minister in charge of Saskatchewan Government Insurance, Mr. Robbins. He has explained how that came about. There is no question that there was a long-standing friendship between the people who bought the hotel and Mr. Buck. There is no mystery as to where Mr. Buck got his information and that was from the people who were buying the hotel. Where they buy their insurance is surely their business. If Mr. Buck is able to take advantage of that then he . . . Mr. Speaker, I'm having a good deal of difficulty . . .

MR. SPEAKER: — Order, order. I just wonder if the House can come to order.

MR. BLAKENEY: — In view of the difficulties, I think I would say I really have nothing to add to what Mr. Robbins has said a good number of times on this subject.

RCMP Investigation of Matter in Culture and Youth

MR. W.C. THATCHER (Thunder Creek): — Mr. Speaker, a question to the Attorney General. Mr. Attorney General, I note in today's paper that the Minister of Culture and Youth has indicated in an interview that an RCMP investigation has been launched into a matter involving the director of recreational and cultural facilities grants, Mr. Tuck. I'd like to ask the Attorney General if he was informed by the Minister of Culture and Youth that there was a potential conflict of interest involving one Glenn Tuck and one Cecil Nobes within his department, whether he discussed the matter with you, and whether you in fact ordered the RCMP to launch an investigation into the matter? Perhaps while you're answering that you could tell us, if this is true, approximately what was the date the conversation between yourself and the Minister of Culture and Youth took place?

HON. R.J. ROMANOW (Attorney General): — Mr. Speaker, the Minister of Culture and Youth received some information (I stand to be corrected; I don't have any files in front of me) about three weeks ago (it may have been a week more or a week less than that), pertaining to a potential conflict of interest and impropriety involving the two gentlemen named. He raised this with me, I believe the same day or the next day that he received this information. The matter was referred to the Department of the Attorney General and the RCMP Police immediately thereafter, either that day or the next day, upon receipt of the information, approximately three to four weeks ago.

MR. THATCHER: — A supplementary question.

MR. SPEAKER: — I wonder if the member for Qu'Appelle can cease his continuing interruption in questions and answers that go on in this House. I think it's gone far beyond the point of my patience and the patience of the members of this House. He continually interjects on the question period, whether it's the person asking the question, or the person giving the answer. I think it has gone beyond the point where it's tolerable in this House. Could the member for Qu'Appelle curb that excess that he has in his character? The member for Thunder Creek.

MR. THATCHER: — Thank you, Mr. Speaker. Frankly he wasn't bothering me that much. However, supplementary question; Mr. Speaker, I think I forgot my supplementary. A question to the minister in charge of culture and youth. Mr. Minister, will you make available to this Assembly, in the first part of next week any business that Giant Enterprises has done with any project receiving a grant from your department within the last three years?

MR. SHILLINGTON: — No, Mr. Speaker, I won't. All the information has been made available to the RCMP. I may advise the member opposite that the RCMP is not in the habit of issuing press releases and making all its information public when it is undertaking an investigation. In accordance with standards in police investigative procedures worldwide, they are now investigating the matter. They are not about to make it public, and neither am I, until their investigation is complete. That's an ordinary and perfectly routine way of handling these investigations.

MR. THATCHER: — Supplementary question to the minister. Is the minister suggesting to this Assembly that when he makes a press release or conducts a press interview announcing the suspension of a senior civil servant, when the minister himself has taken this matter to the press, he is serious in telling this Assembly today when questioned that everything is confidential? Is he serious in saying, I'll tell you only what I deem to be the proper thing; I won't tell you any of the facts, particularly when the facts

may be very damaging and show potential conflicts of interest even further in the Department of Culture and Youth. Are you in effect trying to suppress evidence until this Assembly is over, so hopefully it will come up when everybody has gone home or is on holidays?

MR. SHILLINGTON: — Perhaps, Mr. Speaker, the hon. member for Thunder Creek might benefit from some legal advice. We are co-operating fully with the RCMP. That is our obligation, and that will continue to be our position until the RCMP investigation is complete.

Government Secrecy

MR. D.G. TAYLOR (Indian Head-Wolseley): — A question to the Attorney General. Mr. Attorney General, you know that the opposition has placed in excess of 500 written questions as orders for return on the blues as late as February, four months ago. Many of these questions have to do with just the topic we are dealing with today, contracts to various departments of the government. Is what has been discovered with the Department of Culture and Youth the reason why the opposition has only received 28 replies to over 500 questions, and why those replies are mainly from the Office of the Ombudsman? Are you attempting to prevent this opposition from finding out conflicts within that government such as were discovered today in the Department of Culture and Youth?

SOME HON. MEMBERS: Hear, hear!

MR. ROMANOW: — Mr. Speaker, I have to smile and chuckle a little bit at the representation by the hon. member of his discovery, somehow leaving the impression that the opposition discovered the matter in Department of Culture and Youth, when three or four weeks ago the police were doing their investigation. Subsequent questions as to why we didn't make a press statement while the police were carrying out their investigation — that's an interesting comment. Mr. Speaker, I make the observation to the hon. member that the questions (I said so at the time they were being passed) are very complex, lengthy questions involving detailed checks, months back, into all departments. As soon as those answers are compiled and tabulated, they will be tabled to this House.

MR. TAYLOR: — Supplementary. Many of the questions, Mr. Attorney General (and you know this), have to do with questions such as this: in the fiscal year of 1979-80, the number of permanent staff members of a department, the number on educational leave. Now, what is so difficult in that, that that can't be reported back to the opposition in a period of four months?

MR. ROMANOW: — Mr. Speaker, I tried to explain this to the hon. member for Indian Head-Wolseley at the time of the debate and he refused to accept it then. If the members of the press would remember, the questions go back some considerable length of time in terms of the years involved and do involve, as well, a review of all of the departments concerned. I simply say that the opposition has failed in its job to do the kind of opposition work it should by asking 500 questions on every area, rather than singling on the key areas of opposition required, and then blames us for having loaded the government down with 500 questions to go. Mr. Speaker, they will get the information. They will also get a bill for the preparation of the information which will amount to thousands of dollars of taxpayers' money.

MR. TAYLOR: — Supplementary, Mr. Speaker.

MR. SPEAKER: — Order, order. I will take the member for Moose Jaw North.

Auditor's Report re 1979 PC Party Return

MR. J.L. SKOBERG (Moose Jaw North): — Mr. Speaker, a question to the Hon. Attorney General. In view of the auditor's report concerning the fiscal period return of the PC Party of Saskatchewan for the year ended December 31, 1979 indicating that the records of the party do not readily provide all of the information required by section 203 of The Election Act, 1971, can the Attorney General indicate whether any action is contemplated against the chief official agent of the PC Party, now president of the PC Party of Saskatchewan, for failing to report the identities of the contributors?

MR. ROMANOW: — Mr. Speaker, I would have to check my files on this. I do not have them in front of me.

MR. SPEAKER: — Order, order, order. The Attorney General. Order, order. I am warning the member for Thunder Creek for the last time, Order. The Attorney General.

MR. ROMANOW: — Mr. Speaker, I realize how emotions can run here with respect to the members in question period. I want to say, Mr. Speaker, that I have not seen the file. In fact I am not sure I have much documentation in my office at all on this matter. My answer to the hon. member is, I have not received a report from the chief electoral officer on this matter. Until and unless I receive such a report, with a recommended course of action, no action is contemplated at the present time. I gather there is an investigation which is ongoing. Once that report is received, some action may or may not be warranted. I can't make that call at this time.

MR. SKOBERG: — Supplementary, Mr. Speaker, can the Attorney General indicate whether the official agent of the PC Party of Saskatchewan, the hon. member for Qu'Appelle, can absolve the . . . Can the Attorney General indicate whether Progressive Conservatives . . .

MR. SPEAKER: — Order, order! I'll take the member for Moose Jaw North. Final supplementary.

MR. SKOBERG: — Thank you, Mr. Speaker. We'll try once again. Can the Attorney General indicate whether the official agent of the PC Party of Saskatchewan, the hon. member for Qu'Appelle, can absolve the Progressive Conservatives of responsibility for not reporting the identities of the contributors of some \$78,000 received through the former leader of the PC Party?

MR. ROMANOW: — Mr. Speaker, I want to answer the question by saying, as I understand it, although I had difficulty hearing it, that involves my giving or tendering a legal opinion. I do not believe, with all due respect to the member for Moose Jaw North, I am required by the rules of question period to do so. In any event, I'm not in a position to tender or offer the same for the reasons I have indicated: the matter is under investigation, I am advised. I have not yet received anything on my file or on my desk; but once, and if, I get something, appropriate action will be taken if necessary.

WELCOME TO STUDENTS

MR. R.L. ANDREW (Kindersley): — Before orders of the day, Mr. Speaker, I wonder if I could have the permission of the House to introduce some students? I would like to introduce to the members of the Assembly a group of 21 students from the town of Eatonville in my constituency. They are sponsored by the Eatonville Lions Club and are on a tour of southern Saskatchewan, and part of that tour is to attend the legislature. I hope you had an insider's view on what question period is like today, and I trust you'll have a good trip home.

HON. MEMBERS: Hear, hear!

POINT OF ORDER

MR. LANE: — I wonder if Mr. Speaker would enlighten this Assembly as to how the rule that question period ends at 10:30 was extended this morning to accommodate the member for Moose Jaw North, contrary to the usual practice of this Assembly?

MR. SPEAKER: — Order, order. The question period began about one and a half minutes later. The question period was extended about two minutes over the 10:30 time at which it might normally be expected to end. So I agree that the question period ran over about half a minute. Order, order. I wish that if members had some concerns with regard to the length of the question period they would deal with their members on the rules committee, because I've attempted to facilitate the answering and asking of questions in this Assembly in the past. Members have gone to far as to time me with a stop watch to see that I was being precise and then when I began to be precise, the members complained that I was protecting the government because I cut off an answer in the middle.

I can't do all things for all sides of the House and if they have some serious concerns about how the question period is timed, I am sure the members will take it to their member of the rules committee. I would be very pleased to abide by the decision of the rules committee or a recommendation they may make to the House which would be acceptable to the House, as I have in the past attempted to adhere to those conditions set down for the question period by the members of this House.

I can't cut the question period off one day in the middle of a question or an answer and receive complaints from the House because I've done that and then in another case receive complaints because I've allowed the question period to run over. I can recall recently allowing members to ask questions after the time of the question period had elapsed and that was on that side of the House. I can recall allowing members some extra time to finish an answer to a question and that was on that side of the House.

I appeal to the members, rather than make this an issue in the Chamber, take it to the rules committee. I'll be glad to abide by the decision of the rules committee on this matter.

MR. J.L. SKOBERG (Moose Jaw North): — Before orders of the day, Mr. Speaker, I'm wondering if it could be possible for you to watch this side of the House a little more. I started about 10 minutes after question period began today to stand and be recognized. I realize it's difficult to see both sides.

MR. SPEAKER: — Well, I usually follow the practice of taking at least two or three questions from the official opposition before I recognize anyone else. I'm sorry I didn't see the member rising if he rose 10 minutes after the question period started. I saw him

about 25 minutes after the question period started and I attempted to work him in as soon as possible after that.

ADJOURNED DEBATES

SECOND READINGS

The Assembly resumed the adjourned debate on the proposed motion by the Hon. Mr. Cowley (Provincial Secretary) that Bill No. 105 – **An Act to amend The Legislative Assembly and Executive Council Act** be now read a second time.

MR. R.L. COLLVER (Leader of the Unionest Party): — Mr. Speaker, just before I get into the main body of my remarks today and emphasize certain points on this bill, you will be aware that this bill adds the words: ‘where that group is a political party registered under The Election Act on the day of the last general election.’ Because of that and because I was, in fact, the leader of the Progressive Conservative Party prior to the last general election which created the situation in which this present, third party status bill has come up, I wish to make a brief comment on a matter that was raised this morning – what I considered a very chintzy matter raised in a chintzy way by the hon. member for Moose Jaw North.

Mr. Speaker, you will be aware that The Election Act in the province of Saskatchewan . . .

MR. SPEAKER: — The first thing I will ask the member to do is retract the comment he made about the chintzy statement from the member for Moose Jaw North. I don’t believe that’s parliamentary . . . (inaudible interjections) . . . Order, order! I would ask the member to withdraw it. I don’t believe it’s a parliamentary term.

MR. COLLVER: — Mr. Speaker, I am most happy to withdraw any implication that the member for Moose Jaw North is chintzy. I would however like to say (and this is not referring to any specific member) that sometimes actions in this Assembly can appear to some others to be chintzy. Now, I would add to that, Mr. Speaker, the members will be aware . . . Mr. Speaker, when the members come to order I will continue my remarks. The members will be aware that The Election Act in the province of Saskatchewan very, very specifically states that contributions received from organizations, or individuals, be it under \$100 or over \$100, in between elections, used for current operating expenditures of the party . . .

MR. SPEAKER: — Order, order! I’m going to tell the member, or I’m going to caution the member, that any remarks he makes at this time cannot be a statement on something that has gone on at some other time. It has to be on the principle of Bill No. 105.

I assume that’s what the member is doing, but I don’t want the member to be out of order on this.

MR. COLLVER: — I assure Mr. Speaker I will not be out of order. I am explaining to Mr. Speaker that the bill specifically and retroactively states that in order to be a party in this Assembly, that party must have won in the last election. I am explaining to Mr. Speaker that in fact, specifically, the member for Nipawin and the member for Swift Current ran in the last election under the banner of another party. I believe, Mr. Speaker, I am entitled to express my view that in so far as that other party is concerned, there is no possible way that either this bill or The Election Act, or any other act in the province of

Saskatchewan, requires any disclosures for expenditures of that party, whether it be third party or opposition, in between elections. Those are the facts, and all members will know it. So I don't think (and the members will be well aware of my feelings from time to time with reference to the member for Qu'Appelle) that anyone should be critical in any way, at any time, of any member because he takes a responsible position with a party, be it opposition or third party. If he takes the responsibility for that position, he should not have his integrity or anything else called into question as a result of any actions which might have occurred prior to any previous election.

MR. SPEAKER: — I can't believe the member is in order. No one has called anyone's reputation into question here. I don't understand why the member is doing what he is doing, because I don't see that it is connected with the principle of Bill No. 105. I have heard nothing that convinces me of that.

MR. COLLVER: — Mr. Speaker, I have attempted to try to tell you about it; I've attempted to try to explain it to you. I believe it does have to do with the principle of Bill No. 105 because this bill specifically deals with two members who have left a party, who were elected at the time of the last election under that party banner, and who are now accepting a new party banner. The purpose of this entire bill is to defeat or turn down the new party's attempt to become a party in its fullest sense in so far as this legislative Chamber is concerned.

Now surely, Mr. Speaker, one must look at not only this new bill as it affects the new situation, but must look at what existed before, in order to find out why this bill has been brought forward. I'm wondering, Mr. Speaker, as a matter of fact, whether the NDP decided to bring in Bill 105 as a direct implication of what the member for Moose Jaw North mentioned this morning. I'm wondering whether they are attacking the Unionist Party in the province of Saskatchewan not in order, as they have stated, to correct a bill that is deficient, but in order to attack the official opposition in this province.

I would be most concerned if that were true. Because if The Election Act, Mr. Speaker, called for any political party to divulge those funds that are received between elections, then the NDP would be the very first ones to be called to order in this Assembly because of the 50 cents per month per employee they receive from the Saskatchewan Federation of Labour, which is never reported in their returns. Never! . . . (inaudible interjection) . . . Oh, two bits according to the member for Rosthern. I thought it had gone up to 50 cents — from 15 cents to 25 cents, and at election time 50 cents. It's never reported, never, because that money is used between elections for the operation of the party. Now, Mr. Speaker, we don't in the third party . . .

MR. SPEAKER: — Order. The member has been unable to convince me that what he's talking about is related to Bill 105. The member has to stick to the principle of Bill 105, otherwise members can talk about anything, and we'll have a miniature throne debate. That's not the purpose of this time now. Its purpose is to focus on the principle of Bill 105, and I'll ask the member to do that.

MR. COLLVER: — Yes, Mr. Speaker. I thought I had explained how it related to Bill 105; but if I didn't explain it successfully then, surely I'll return to some other dissertations which will, perhaps, excite the members more than the previous discussion. Now Mr. Speaker, just before I get to the main body of the remarks I do want to comment briefly (and I hope Mr. Speaker will say that this is in order) on press reports of what has been going on in the Chamber, in relation to the introduction of Bill 105, and the discussions that have been going on. The press stated yesterday and this morning that they thought

I was somehow holding up the business of this legislative Chamber.

Now Mr. Speaker, it's okay. by me if the press want to take that attitude, even though they sit in this very Chamber, and have seen what's happened every single day in the last week. That's their business. That wouldn't concern me one iota. As a matter of fact, Mr. Speaker, to be quite frank with you, if my discussions on Bill 105 hold up the Saskatchewan legislature for four months it's not going to concern me if the press say that it's all my fault, and it's terrible that we're spending not \$5,000 a day as some member of the press corps said, but \$10,000 a day to keep this Assembly open every extra day. That's the extra cost.

I just thought I might mention it to the members of the press who didn't happen to understand it. The security officers alone have 10 extra officers while the session is on. There are 24 people in the Hansard office. Each member who lives out of town gets an extra \$59 a day; each member who lives in town gets an extra \$39 a day for every day . . . You just have to multiply those out, pretty soon you'll see it's \$10,000 a day. That's what it costs. And if that's what you want us to report, that's fine.

But Mr. Speaker, I want to emphasize that on every single day that I have been speaking to Bill 105, I have asked for – no, I have pleaded for – the opportunity to adjourn the debate. This opportunity has been given to every other member of this Assembly during this session. At no time has an adjourned debate been refused in this session except to me for Bill No. 105.

Mr. Speaker, the reason I have asked for it is that here we are again on Friday, June 6 and Bill No. 105 is called first. Interestingly enough this is the first time we have seen a total Xerox of the previous day's business, with Bill No. 105 specially typed in at the top. This means again I am saving the Attorney General, the House Leader, a great deal of money. He keeps taking the picture of this. He has done that now for four straight days. Here is a long list of the people's business we could get on with. We would very much like to see ourselves get on with the people's business. I am sure every member of this Assembly would like to do the same.

Mr. Speaker, the reason why I have asked for an adjourned debate is very simple. The members will be aware that a two-member caucus, when introducing an amendment, can speak to the motion and the amendment but may not return to the debate to rebut. The normal tenure in any debate, the normal terms of reference in any debate of any kind, no matter where it may be held, in fact every rule of debate, says the opening speaker may make his point, sit down, listen to the others and then come back to rebut. That is only reasonable and rational. In this debate, since this Bill No. 105 so materially affects the member for Swift Current and the member for Nipawin, I would have thought every member of this House would have wanted to ensure that the strictest rules of debate, the strictest rules of decorum, and the strictest possible rules of presenting their arguments were followed, so the discussion would not only seem to be fair but would be fair.

Now, Mr. Speaker, that having been said, I can only say to hon. members (and to the press) that I want to get on with the people's business. I want an opportunity in this debate to be able to rebut what the members might possibly say.

MR. SPEAKER: — Will the member for Nipawin permit leave to introduce guests?

WELCOME TO STUDENTS

MR. G.S. MUIRHEAD (Arm River) – Mr. Speaker, I thank the member for Nipawin.

I wish to introduce to you and to the members of this Assembly 43 Grade 4 students from Outlook. They are seated in the east gallery. They are accompanied by their teachers, Mrs. Lee, Mr. Koop and their chaperone, Mrs. Birbeck, as well as their bus driver, Mary DeBoice. I welcome you all to the Assembly. I understand you will be touring the city today. I hope it is a very educational day for you. I ask all members to join with me in welcoming you to this Assembly.

HON. MEMBERS: Hear, hear!

Bill No. 105 (continued)

MR. COLLVER: — Thank you, Mr. Speaker. As I was saying earlier, once again we find ourselves in the position of wanting to get on with the people's business. I see no reason why the members in this Assembly will not allow even a modicum of an appearance of fair play to outsiders on the discussion of Bill No. 105. I say (and they may not agree with this) that this bill materially affects them and the people who will replace them in the future. It materially affects them. Therefore, Mr. Speaker, I beg leave to adjourn debate.

Motion to adjourn debate on Bill No. 105 negated on the following recorded division:

YEAS — 3

Thatcher

Collver

Ham

NAYS — 37

Pepper

Allen

Romanow

Messer

Kramer

Robbins

Baker

Skoberg

McArthur

Shillington

MacMurchy

Mostoway

Banda

Hammersmith

Kowalchuk

MacAuley

Feschuk

Byers

Vickar

Rolfes

Tchorzewski

Prebble

Nelson

Engel

Poniatowski

Lingenfelter

White

Solomon

Berntson

Birkbeck

Larter

Rousseau

Swan

Pickering

Muirhead

Katzman

Duncan

MR. COLLVER: — Well, Mr. Speaker, I suppose one wins one at a time. It's just a matter of chipping away. . . . (inaudible interjection) . . . I suppose if every member in this Assembly improved his vote 50 per cent in the course of a week then nobody would be defeated in the next election.

Now, Mr. Speaker, I want to return, because it is extremely important to the course of my discussion, to the discussion that I ended with last evening on natural justice, and the fact that Bill No. 105 is opposed to the principles of natural justice and therefore is a positive law in opposition to natural justice, which will not work. Before I return to that, because it is an extremely important plank in my case, I want to tell the members that during the course of the discussion last evening it became apparent to me that certain NDP members in this Assembly were unaware of the true facts as relating to two things.

First of all they were unaware of the implications of Bill No. 105 as it relates to the very important principle that when a member is elected under a party banner in the parliamentary system he is required, is duty and honor bound, to represent all of his constituents after his election. That is his prime responsibility. And because that argument only came to me during the course of the debate last evening, I found it necessary, because I feel it is an extremely important point in this debate, to add to the amendment that I am going to propose at the conclusion of my remarks. I'll just read, Mr. Speaker, the item which came out of the discussion of last night that I am adding to this proposed amendment:

The principle of the bill is contrary to the tradition that once a member is elected the member owes his primary motivation to all of his constituents, not just to those in the party under whose banner the member was elected, since it recognizes party as a criterion for full membership in the Assembly.

Now, there is no other act in the province of Saskatchewan, or in any province in Canada or in Canada itself (which I know of), which recognizes party as a criterion for membership in the House. This would establish a brand new precedent, not only for Saskatchewan, but also for the Canadian scene and Canadian legislatures. Mr. Speaker, I think that particular point has to be emphasized, has to be belabored, because I believe it is the essence of what the NDP mover of the bill, the member for Biggar, was saying in his remarks when he introduced the bill. And that was that a party should not be recognized for purposes of the funds.

Remember, Mr. Speaker, we aren't talking about specific parties when we talk about The Legislative Assembly and Executive Council Act as it exists now – not the amended act, but as it exists now. The act as it exists now does not reflect any party requirement. It merely says any party which has the largest number of members on the opposition side shall be the opposition. It says the party which is the third party shall be the party with the next highest number of members. It doesn't say anything about any specific party, nor does it say anything about any set of criteria for that particular party. It merely sets out what the framers of that legislation intended to do and that was to recognize that government cabinet members receive through their offices certain assistance through research and secretarial help which is not available to the opposition side of the legislature.

In order to improve the liberal-democratic traditions of this Assembly, past legislators have said that because of that imbalance we shall attempt, in a minor way, to obtain a semblance (in so far as the legislature is concerned) of fair play. And so they recognized that the second largest group in the House shall be the opposition and that party shall receive certain funds and recognition. The next size of party shall be the third party and that party will also receive certain recognition and funds.

Now, here is the point. The moment you carry that a step further (which is what you have

done with Bill No. 105), the moment you say the party in some way has to obtain certain election results, then you are establishing a party criterion for membership in the House. If you do that, you tell your constituents that to you, as an individual member of this Legislative Assembly, your party and the people who supported your party, are more important to the members of this Assembly than are all of the constituents. Mr. Speaker, I suggest to you – no, I go farther than suggesting – I implore you and members of this Assembly to understand that principle. If that principle is lost, then what opposition parties have been suggesting for a long time will become increasingly apparent, and that is that government members, in their constituencies, are rewarded.

Mr. Speaker, it might interest you to know that I received a letter yesterday from a woman in Manitoba who said that she did not support the Unionest Party. The reason she did not support the Unionest Party was because she had travelled through the United States and there was a press report that had come to her attention concerning the recent presidential primary. It said one state did not receive some \$18 million in federal money from the federal treasury because of the way it voted on the presidential primary.

Now, whether that is true or untrue is of no consequence. It is that woman's perception of what happened in the United States of America which caused her to say that we have a better system. Mr. Speaker, I think the woman is slightly mistaken, because we certainly have the same kind of thing happen in the province of Saskatchewan. But the one thing we have been able to do as a legislature over the course of the last decade is convince people that in fact those traditions of parliament that have come down through the years are upheld. No matter what party platform the individual is elected under, that individual in the legislature will serve all constituents in his constituency. The moment you bring party into it, you remove that tradition. I consider that to be an extremely important matter, and one that I hope the NDP members will study and think about. That's all I ask. If the NDP members will think about that as it relates to this bill, they may see that this is not the way to achieve what they've been trying to achieve, or what they say they've been trying to achieve.

Now the second thing before I, as I say, get into the main body of my discussion this morning on natural justice, which is probably one of the most important arguments against Bill No. 105, is that I have been informed by one or two NDP members that they are under the impression this bill does not affect the balance of research and secretarial help in this legislative Chamber. Mr. Speaker, nothing could be farther from the truth. Let me explain to you why that is true. For the benefit of individual NDP members, I suggest that they check with the office of the Clerk to confirm what I am about to say.

I'm speaking now strictly about funds. It is not funds that I believe are important, although I believe that research and secretarial help are important, and the key to the job that any member may do in this legislative Chamber.

The provisions of The Legislative Assembly and Executive Council Act provide the following. They provide for independent members of the legislature \$2,500 per year for research and secretarial help. That's what it provides for individual members. That's it. Now here's what it provides for parties and for caucuses. And this is just the act. The act provides \$2,500 per member for caucuses, plus for the government some \$45,000 for research and secretarial help (I believe that number is correct). Remember, all the numbers I am quoting to you now are from the act itself. Mr. Speaker, before I go on I want to say that I remember the numbers for the opposition parties and

that I am going to give the members the numbers for the opposition parties. I believe the government backbenchers or government caucus is higher than that. But just accept the opposition numbers as being for the government. I'm sure the government caucus is higher than the opposition caucus, but I don't have those numbers in front of me.

The numbers I am presenting to you now are the numbers before the cost of living adjustment, which was built into the act, so the new numbers that are existent now are numbers that are higher than the numbers I am presenting to you. Mr. Speaker, here are the facts: independent members get \$2,500, that's it; the opposition party receives \$2,500 per member, plus \$30,000 for a caucus grant, plus three hours of secretarial help per day per member while the House is in session (and I should say the independent members also get that). So the additional there for the opposition is \$30,000. But outside the act, over and above what the Leader of the Opposition gets, over and above what the leader's office gets, over and above that the opposition receives, and so does the government, one research officer 4 (the highest level), plus one research officer 3 for every eight members. Now, if members would examine that, the opposition receives \$2,500 per member (which is what the independents get), plus the three hours of secretarial help per day (also what the independents get), plus \$30,000 to the caucus (which is extra), plus a research officer 4 (which is \$36,000 at this moment in time), plus a research officer 3 for every eight members.

Now that's what the government receives (it's more than that) and that is what the opposition receives. I know. How in the world the NDP members could have been so misled on this by whoever was introducing the changes in this act to them is beyond my comprehension. Never mind the basic and fundamental reason of this bill attacking individual members of the legislature, but the basic and fundamental reason why the member for Swift Current and the member for Nipawin object to this from a funding point of view is that with the passage of this bill, for research and secretarial help, this caucus would receive in total some \$15,000 plus \$5,000. That is the total if this bill passes; \$20,000 which is not enough, Mr. Speaker, to even buy one research officer, let alone secretaries. Now that's the total; those are the facts. Whoever has been advising the government members on this must have been advising them erroneously. I invite the members of this Assembly to go to the Clerk's office and check what I've said. That is all that is available to a third party if you pass this bill. It means that two members of this Assembly will not be able to engage the services of any kind of researcher, or any kind of secretarial help, in concert, during the course of the session. That surely is unreasonable. If you want to talk just strictly dollars and cents, that is totally unreasonable.

Now, Mr. Speaker, the research officer 3 and the research officer 3 for every eight members is not in The Legislative Assembly and Executive Council Act. It is an amount which was negotiated last year between government caucus members and the official opposition. That's fair game, but that negotiation doesn't apply to the Unionest Party members. Even if you attacked the bill on this, and you removed the party status of the Unionest Party, you have not (and I'm sure you are aware) removed the right of the two of us to form a caucus, because the definition under The Legislative Assembly and Executive Council Act is that a caucus is two or more members of the same party. That's the definition of a caucus.

But that caucus has no negotiations of any kind, nor has anyone approached us pertaining to a research officer 4, or a research officer 3 for every eight members – no one. I must say, Mr. Speaker, we have attempted to talk to the Clerk about that very thing. Of course he has received no instructions from the government or from the

opposition or anyone else, so those kinds of negotiations were not made available to us; it wasn't possible.

The bill is not attacking the rights of these two members to be a caucus; it's only attacking the right of the members to be in the party. But taken in straight dollars and cents, the totals are erroneous when compared to others. Erroneous is the wrong word. The totals are unfair and unreasonable, and are in total imbalance when it comes to the NDP backbenchers and the Conservative backbenchers. You are taking away our right to be a party, in which case the member for Nipawin won't be recognized as the interim leader. That's what this bill does. You think it's fair. I don't think it's reasonable; I think it's attacking the rights of members, and that's why I've been so adamant about the bill.

But let's just take it from straight dollars and cents. These are the facts; talk to the Clerk. They are the facts. Someone is misleading you.

Mr. Speaker, I do have a copy of the act now in front of me, and I do wish to cite the existing act as to the amounts to be received by the government caucus members. Remember, this is the amount in The Legislative Assembly and Executive Council Act, which is over and above the research officer 4 every caucus gets, plus a research officer 3 for every eight members.

I'll just take a second, Mr. Speaker, if I may, to find the appropriate section of the act where that appears. . . . Well, Mr. Speaker, I'll try to look it up or have it looked up, and bring it back to the members' attention, what the government caucus received. But I can assure the members that the numbers I have told you now are the numbers that the official opposition received. And that's for the backbenchers. This is discounting any moneys paid to the leader or to the leader's office. Now I think Mr. Speaker, with deference to the members, that rather than bring about a retroactive bill which attacks individual members of the legislature, it would be infinitely better from every member's point of view to accept the solution to the problem that I have already put forward and suggested to the members; that is, that I shouldn't receive personally any money and any money should be donated.

Now if you like, Mr. Speaker, (and I don't think it's reasonable or right), rather than send it to the Donor's Choice in Nipawin, which I think is the more reasonable choice, perhaps what would be a more reasonable choice is that the member for Nipawin who finds himself in this awkward position, refund it to the government, which could be equally the same. I wouldn't have any objection to that. What I'm saying to the members is that from the fair play point of view, from the straight equalization of backbench members of this Assembly point of view, the only possible way that you can be reasonable, if you are talking about reason, is not to bring a bill like this forward. It is going to set a precedent, as I've said before, that I think will rock the very foundations of this Chamber in terms of the attitudes of members towards their constituents, and vice versa, the attitude of constituents towards their members. This is with reference to attack on individual members, with reference to requiring that this Assembly review itself and place members in this kind of an awkward position.

I think the solution I have suggested is more realistic and more rational. I think the members may object (and I think with considerable reason) if two members decided to leave one party, they don't run under the banner of the previous election; they come over and form another party; then all of a sudden one guy says, he's had no leadership convention; he has done nothing; he says I'm the leader, great, big deal; and he should

suddenly be rewarded for it – I don't think that's reasonable either. Which is precisely why I've said that the money has been donated to charity.

Now, Mr. Speaker, to be quite frank, as I say, it can be refunded just as easily to the government if that's what the government requires. But somehow in some way, those same backbench MLAs on the NDP side of the House are being misled on this issue, and I can't tell why. I don't see why. They themselves must know that the negotiations with reference to research and secretarial help are as important to the backbench NDP members as they are to the opposition side of the House. Because you know as individual backbench MLAs that you have a job to do on behalf of your constituencies that requires the assistance of these technical people just the same as the cabinet members have jobs to do for their constituents which require moneys expended from their departments for their various and sundry duties. And you know it is important for you to have this, as it is for the members over here. Why would you want to jigger with this? Why would you want to fool with this? I asked this question yesterday, Mr. Speaker. I asked the question, why would the NDP bring in this kind of bill when there were so many other ways to approach the problem?

For example, the NDP House Leader or a group or the Premier could have approached me and said, we don't think it's reasonable you receive that money. Do you not believe that it would be more in keeping if you refunded it and agreed to refund it for as long as you are sitting? Isn't that the right way to do it? Wouldn't that be a more proper approach than to take up the people's time, than to take up \$10,000 a day of this session's money, than not to go on with the people's business? Wouldn't it have been more reasonable if someone had said, would you like to do that?

If I had said no, then bring forward a bill, not like this one that attacks members, but bring forward a bill that makes an appropriate change. There are many ways to do it other than with a retroactive bill that attacks members, that makes lawbreakers out of members of this legislature who didn't break any law. That could have been done but was not done. Instead this bill came forward.

And as I say, as much to the backbench NDP MLA as to the Conservative opposition members, why would the cabinet decide to bring in the bill this way? Is it an attempt, a first step to attack that hard won assistance the NDP caucus has achieved through negotiation over the last number of years? Is that the purpose of this bill? Are you as backbenchers, once again going to be relegated to having no kind of assistance and no kind of secretarial help, which is what you had before? You had to be dependent on the cabinet for this kind of help. Are you once again going to be relegated to that kind of status in this Assembly? I think you should ask that question.

Now perhaps hon. members on the government side of this House, in coming to their conclusions, have somehow decided that it doesn't make any difference about any of these things. We are going to attack those guys anyway. They may have come to the conclusion that the politics (and I have heard two or three say this) of the situation is, if we don't do something about you, the people out there will hang us from the nearest tree.

I suggest to individual members of this Chamber, if you really want to do something about members who are suggesting that the Canadian union is breaking up and dissolving and that we should seek union elsewhere, go out and present your arguments better than they. Go out and convince people that they are crazier than a loon. Go out and convince people. Don't attack them politically. Attack them with ideas.

Attack them with ideals. But don't try to say to the people of Saskatchewan that we in Saskatchewan are less free than they are in Quebec, because that's what you are doing.

We are less able to meet that challenge here than the Government of Quebec was when the Parti Quebecois was first formed. They attacked the ideas and the ideals. And that's the only possible way that you can change people's minds, not by attacking individual members for their ideas but by attacking their ideas themselves. What happened to that tradition? What happened to the confidence of the NDP? What happened to the confidence of the Conservatives?

There are realistic ways to approach any problem, but the way that the NDP has approached this problem is dead wrong. Now, Mr. Speaker, if I were sitting on the NDP side of the House today, after seven and one-half or eight days, 36.5 hours of listening to the member for Nipawin, I would think that either the member for Nipawin is making a good point, and we should have his point continue to get out to the people, or the member for Nipawin is wrong and we've already made up our minds. There can't be any reason to sit over there and have to listen on and on and on to these arguments being presented, if their minds are already made up. They have a majority in the House. They know what they can do with the majority. They know debate can be ended anytime.

Whose fault is it, Mr. Speaker, that in this House at 10,000 extra dollars a day to the people of Saskatchewan, we have already used up two and one-half years of the grants covered by Bill No. 105, and we're not even to second reading? Even after all of the arguments against this bill are presented in this Assembly on second reading, every member will know that all the arguments are again presented in committee. And the members will know that all the arguments are again presented on third reading of the bill.

There is any easy way. Either I have been reasonably convincing to the members of this Assembly, and some of their minds have changed, and they have decided that this is not the right way to approach other members of this Chamber in a free society, in a liberal democratic society, in which case they should proceed to other business of the people, or they should invoke closure with their majority and put the bill through. To ask a member of the Assembly, who believes in the rights of association, and believes all these things I've mentioned over the last number of hours, as the Attorney General does every time he comes into the House, to give up, is surely unreasonable and unrealistic.

Why? If that member believes as strongly as he does, and he's holding up the majority, then there is a way to end the debate, not only a way, but it's written into the rules. That's as easy as pie. The Attorney General of the province, in his press statement yesterday said: no matter how long the Unionest leader continues the bill will go through sooner or later with the majority government vote.

Now, if that's true, if that's correct, then why do the government members want to continue to spend an extra \$10,000 every single day that this House continues to sit? Why do the government members want to do that? If it's going to go through on a majority vote anyway, then use your majority power, which is what you are going to do anyway, to end this debate. But don't ask the member or members, who believe so strongly that this entire institution as a result of this precedent will be placed in jeopardy, to give up.

Now you may be forcing the bill every day, by bringing it before the people every day,

eventually force the member to collapse, or to not think of any other approach to the bill, or not to think of any other means by which the bill could be tabled or stopped. That may be what the tactic is.

I ask the Attorney General and I ask the hon. members opposite, what is it you're trying to do? What is it you're trying to prove? Are you trying to prove that you're so reasonable that this debate can continue forever, when you say that the majority vote is going to happen anyway? So you want to spend \$10,000 extra of the people's money every single day the session stays open? That is what you're doing.

Every single day this bill has been called forward I've asked for an adjournment and haven't been granted it, so do you think the people out there believe it's me that is holding up the House? That's nonsense. I'll tell you what's going to happen next week when this continues. Either the people are going to recognize – and I predict this to be true – that what I'm saying is correct and they will immediately get hold of their members to say, get rid of that bill; yank it. Or they will say, you're right in your approach to yank the money away from those guys who want to break up Canada. And they will say, use your majority to shut off that expense.

And I'm saying, why wait until then? If members in this Chamber, Mr. Speaker, have not been convinced by this time that the member for Swift Current and the member for Nipawin are adamant about this bill and are bound and determined to present the case to the very utmost of their ability, using all of the research materials available to them and looking at the bill from every possible angle – if the members are not aware of that now, or think that we are physically incapable of continuing, then the members are not thinking properly.

Now it's easy for the members opposite to say to themselves, we're going to outlast him because he has to do the talking. We just have to sit here and read our papers or whatever else we're doing. It's easy for us. It's hard for him. We'll outlast him. We'll beat him that way. It's easy for them, Mr. Speaker, because it's not their \$10,000 a day. It's the taxpayers' \$10,000 a day. It's easy for them to sit there in their chairs and do whatever they will, or stand there and disturb the House. It's easy to do that when they're drawing \$59 a day (each of those who are out of town) for sitting there. Even the ones who aren't sitting there are drawing \$59 a day. The ones in town are drawing \$39 a day. It's easy for them to do that because it's not their money that is paying them. It's the taxpayers' money.

But, Mr. Speaker, and I ask this question sincerely of the members of this Chamber, why do you expect the people you are attacking to lie down and play dead? Why, Mr. Speaker, do the NDP members and the Conservative members want to continue with this charade? Why would you ask a member who believes he's being attacked to lie down and play dead? Is that rational? Is it even reasonable? Do you think the people are going to buy that? Do you think the people are going to accept that? I don't think so. I think the people of this province are going to recognize the issue here one way or another. Perhaps they are going to say they don't want to join the United States and want to tie that into this bill, and that's it. They are going to say, take away their dough. Well, if they say that, then use your majority, as the Attorney General has said; call closure and you win with your majority. And we don't have to lie down and play dead.

On the other hand, if, in fact, there are some members over there (and I know there are one or two) . . . (inaudible interjection) . . . Mr. Speaker, I really wish the Minister for Mineral Resources would present his jokes to the Assembly so we could all have a little

laugh. That would be infinitely superior. If I were talking about something particularly funny, I would love to hear gales of laughter coming from the other side of the House. At this time I thought I was attempting to suggest a way out for the NDP majority in this House. Obviously, Mr. Speaker, the NDP majority is not interested in any way out. They want to continue to spend . . . (inaudible interjection) . . . Well, Mr. Speaker, the Minister of Health continues the same kind of talk time and time again – sit down, sit down, he says. Why should I? As long as I am on this bill, as long as I am pertinent to the bill, why should I sit down?

Now, in order to enlighten you, Sir, and the members of this Assembly on further reasons why this bill is biased (and you will recall I introduced that topic last evening) and to develop more authority for the argument that the bill is biased, I have obtained two new publications, including *The Modern Legal Studies* by Paul Jackson on natural justice. I do wish to introduce some quotations from him. And I have obtained *Natural Justice* by H.H. Marshall, C.M.G., LL.B., Q.C., Attorney General for the northern region of Nigeria which was published in London in 1959. What will be introduced, Mr. Speaker, is various quotations from these authors to try to help members enjoy their weekend. Perhaps they would like to do a little weekend study and obtain some of these interesting and exciting cases. Perhaps it would help them to make their decision on Bill No. 105 more readily and more easily.

You will recall Mr. Hewitt's book on natural justice and some of the comments he made. Mr. Speaker, you will recall last evening before we adjourned, I had just got into how the principles of bias relate to administrative bodies, such as the legislative Chamber. Now you may say that the legislature in Saskatchewan is not an administrative body. But, in fact, I would argue that. I would argue that, because under the parliamentary system the cabinet, which is the administrative arm of the Government of Saskatchewan, is required to be: (a) responsible to this Assembly, and (b) composed of members of this Assembly. Then I would argue that, because of that, the administrative function is a part of the parliamentary system. We do not have the duality of the purposes they have in the United States with a separately elected administration and legislative function. We combine the two in our system, as you know, Mr. Speaker, and therefore I would argue that the legislative Chamber does have an administrative function. As a matter of fact, Mr. Speaker, when we examine the estimates in this House, we are performing an administrative function as opposed to a legislative function. When we are looking at various departments line by line, it is more of an administrative function than it is a legislative function.

So I think the principles of bias do apply to this Chamber and therefore do apply in relation to Bill No. 105 when I say there is bias. You will recall, Mr. Speaker, I made the two points. The bill itself is biased because it refers only to political parties elected at the previous election eliminating all other parties in the province of Saskatchewan. That is one reason it is biased.

The second reason it is biased is the nature of the Assembly itself. The government, the opposition, and the third party are of different minds, have various and sundry political biases and, as a result of those biases in preparing the bill, there is a *prima facie* case that the bill is biased. Now, Mr. Speaker, that bias, in a judicial function, is the cause for removal (as you know) in an administrative body (if you like, a quasi-judicial body).

Now, Mr. Speaker, I would like to just continue for a little bit on the discussion of bias as it relates to administrative bodies. I will just try to pick up where I left off last evening. Professor Hewitt (I just barely got started last night) goes on to say (I won't repeat last

evening's):

Moreover, judicial functions may include those of licensing authorities which are often called upon to decide issues with wide discretionary powers.

Now, Mr. Speaker, that is what a legislative Chamber is, surely. We are responsible for the various licensing organizations in the province of Saskatchewan, the highway traffic board, the liquor control board and others. We are required, as a body, to question the actions of those quasi-judicial agencies. We are required to question those agencies. As a result, we take part . . .

MR. SPEAKER: — The member for The Battlefords. Does the member have permission?

MR. COLLVER: — Yes, I would be most happy.

WELCOME TO STUDENTS

HON. E. KRAMER (The Battlefords): — I would like to introduce a group from my constituency. Mr. Speaker, it is a pleasure for me, as the member of the legislature for The Battlefords, to introduce a group, from one of the older schools in North Battleford, the Notre Dame Separate School, of 70 students and their teachers and chaperones: Al Kuechle, Wally Waldbillig, Vivian Weimeyer and Loretta Ladorde. Another lady who is with them is a Mrs. Nolin. They are here today for the usual tours and so on. But I would like to say a word or two to the group if I may, Mr. Speaker, with your tolerance. This is our 75th birthday, and it is rather tragic on the 75th birthday, Mr. Speaker, that I have a group of young people who are witnessing the worst miscarriage of democratic procedure that has ever been witnessed in this House.

MR. SPEAKER: — I take this opportunity to caution the Minister of Highways that he cannot enter a debate which is in progress at this point because the member for Nipawin has the floor.

MR. KRAMER: — Mr. Speaker, this is a group of school children, and I believe (if you disagree) that it is good and proper for them to know what is going on in the legislature. I say that we are listening to somebody who has no moral right to sit or speak in this legislature.

MR. SPEAKER: — I am going to discontinue the member's introduction. The member for Nipawin.

BILL No. 105 (Continued)

MR. COLLVER: — If Mr. Speaker will just give me a moment.

MR. KRAMER: — We have given you 34 hours of your bloody nonsense.

AN HON. MEMBER: — You haven't been here. How would you know?

MR. SPEAKER: — I'll ask the Minister of Highways to withdraw that comment.

MR. KRAMER: — Yes, I'll withdraw it.

MR. SPEAKER: — The member for Nipawin.

MR. COLLVER: — I would, Mr. Speaker, under normal circumstances if the children were not here, certainly comment on the lack of good manners and form shown by the member for the Battlefords in interjecting that into an introduction.

MR. SPEAKER: — The member would not have the opportunity to comment on that. He may proceed on Bill No. 105 which is before us at this time.

MR. KRAMER: — Privilege, Mr. Speaker. The member for Nipawin deserves no . . .

MR. SPEAKER: — Order. That's not a point of privilege. The member for Nipawin — Bill No. 105, second reading.

MR. COLLVER: — Mr. Speaker, Bill No. 105. But Mr. Speaker did ask for my permission to allow an introduction. He knows that I could have refused that permission, and in the light of those circumstances, in the light of the fact that I did it graciously and gracefully, I am surprised at the actions of certain people.

Moreover, as Professor Hewitt says:

Judicial functions may include those of licensing authorities, which are often called upon to decide issues with wide discretionary powers.

When I was talking I went on to say, Mr. Speaker, that this Assembly is in fact a licensing authority because it reviews the basis of the licensing authority. Now what Bill No. 105 does is attempt to take away from the rights of individual members in this Chamber. And for the benefit of some members who will remain nameless, as well they should, any such activity by a legislative Chamber detracts, takes away, removes the freedoms from all. Mr. Speaker, I can only say that it is important that everyone — adults, teachers, bus drivers, everyone — understands the need to maintain the basic freedoms in this country that are protected under the Canadian Bill of Rights, under the Saskatchewan Bill of Rights. Everyone, Mr. Speaker, everyone in this House is entitled to speak from his or her feet, not as some members try to do from their chairs.

Mr. Speaker, if some members had been in this Chamber earlier in this debate, they might have learned something about the oath of allegiance to Her Majesty the Queen, and about the great number of people in the province of British Columbia in 1870 who, having sworn their oath of allegiance to Her Majesty the Queen, submitted a petition to the President of the United States, for consideration that they, because they were Her Majesty's subjects and Her Majesty would want the best for her subjects, be admitted to the United States rather than to Canada.

For the benefit of those who are too busy on their chairs to study history, and for the benefit of those who should have spent more time in school (as some children do) studying history, those same subjects in British Columbia (when those facts were presented to the people of British Columbia and they opted to join in Canada in 1870) were not only respected citizens of British Columbia, but were respected by Her Majesty the Queen. Mr. Speaker, they . . . (inaudible interjections) . . .

MR. SPEAKER: — Order, order! I would ask all members, at all times, not to make comments from their chairs. This is especially appropriate today. I don't know how many times I have been on my feet on this very subject today, and I don't want to have to get on my feet again about that subject. One member has the floor.

While I am on my feet, I do want to issue a general word of caution about repetition, and I direct this to the member who is discussing the bill before us. If I've heard his comments on this subject once, I've heard them at least three times. I've heard some of his other comments at least five times, and I'm keeping track of them. I tell the member that there is a rule in the book which deals with constant repetition. I'm going to remind the member for Nipawin of that, should he be repetitious in this debate. Repetition in this debate is a waste of the time of this House, and is not permitted by the rules. That's why the rules are there: to prevent the misuse of the members' time in this House. I just issue that general word of caution to the member for Nipawin now, so that I will not have to rise on it later.

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

The member for The Battlefords, from his chair, stated that the member for Nipawin has no right to be here.

MR. SPEAKER: — Order. All members are issuing things from their chairs which I regret and I'm sure some other members in this Chamber regret. I wish they would quit issuing statements from their chairs. The member for The Battlefords was out of order, and I called him out of order.

Now, I want the member to get on with the principle of this bill.

MR. COLLVER: — Mr. Speaker, I intend to get on with the principle of this bill, but I believe, as an individual member, I have the right to raise a matter of privilege if I believe it to be one. . . . (inaudible interjection) . . . It would have been, if Mr. Speaker had heard it.

Now, Mr. Speaker, I'm talking about the bill in relation to natural justice. I'm talking about some cases that relate to bias which, in turn, this bill is. I believe I have linked that. I don't want to say that again because Mr. Speaker would say I was repetitious.

Where justices are acting as a court of any sort, they must proceed according to the regular rules which are applicable to all courts of justice; but in respect to the application for a licence or its refusal, they may, and constantly do receive representations not on oath.

Well, Mr. Speaker, Professor Hewitt draws our attention to *Frome United Breweries Company v. Bath, J.J. (1926) A.C. 586* at page 617, where it was said by Lord Carson:

There is no doubt about difficulty in laying down any fixed rule as to 'bias' in cases where magistrates under the Licensing Acts are frequently compelled to mix up what might be called administrative with what might be called judicial action.

Now I believe that in this particular instance the case can be related to say that where there is a mixing up of the judicial and administrative functions, there is also a mixing up in this Chamber of the legislative and administrative functions. And even then Lord Sumner has pointed out:

. . . it was the intention of the Legislature that in dealing with such matters the licensing and compensation authorities should have the benefit of the personal knowledge and experience of individual justices. This consideration,

however, must not be held to relieve them from their duty to conduct their proceedings and arrive at decisions which affect property and rights in accordance with well-established rules laid down for the purpose of procuring a fair and unbiased judgment.

Now isn't that precisely what I have been trying to say during this debate? A fair and unbiased judgment is all that is requested of this Chamber. And I refer hon. members to that case so that they might learn that even when the functions are mixed, it is a requirement in British common law that the administrators or the judiciaries be unbiased.

In contrast, however, is the case *Austen v. Rayner* (1958) 1 W.L.R. 1300, where the Court of Appeal declined to say positively whether a Minister of the Crown was acting in a judicial capacity when he gave a certificate to the effect that the production in judicial proceedings of certain evidence would be against the national interest.

So on the one side they're combining the judicial and administrative functions. On that other side they are saying that the minister of the Crown, in this circumstance, isn't performing a judicial function.

Now I'm not going on with Professor Hewitt's comments from there on, Mr. Speaker, because he goes into the kind of things that I don't think are pertinent to this bill. Although he does talk about bias further, I don't think it is germane to the issue of bias in Bill No. 105.

However, he goes on to talk about one of the most important parts of the argument that bias must not interfere with natural law, and that's when he talks about a personal or pecuniary interest. Now every member of this legislative Chamber has a personal interest, certainly, in The Legislative Assembly and Executive Council Act – every single member. The personal interests are the expense allowances, the moneys that they get paid, the allowances for their secretarial help, the allowances for their caucuses and the allowance for their research.

The fact is, Mr. Speaker, that that personal interest is here. In addition, every member of this Chamber has a pecuniary interest in The Legislative Assembly and Executive Council Act because under it they receive some of the moneys on which they live. As a matter of fact, it's been suggested by the Premier of Saskatchewan and by others that being an MLA is becoming a full-time job. As a result of the full-time job, if that is a full-time job, all of their moneys come from this change and as a result of The Legislative Assembly and Executive Council Act. So they certainly have a pecuniary interest in this bill.

You will recall last evening, Mr. Speaker, I made the suggestion that it would be infinitely better for The Legislative Assembly and Executive Council Act to be administered by an outside body, similar to the Hughes committee and that one be appointed to review this act. And you will recall, Mr. Speaker, I didn't delve into that too deeply because it was just about five minutes to 10 o'clock when I first started to discuss it. I'm sure Mr. Speaker, when reading Hansard, will discover that it was late in the day. But it was meant as a sincere suggestion. Here is one of the reasons it was meant as a sincere suggestion to this House.

A personal or pecuniary interest, however slight, will disqualify a person from adjudicating in any judicial proceedings, even though it is not proved that the decision is in any way affected.

Now, Mr. Speaker, surely if we are to follow the rules of law in this Assembly, we are not above the law. If we are to follow the rule of law and the rules of natural justice, how can we decide on issues in which we have a direct personal or pecuniary interest?

But that's what we are doing when we try to enact legislation like Bill No. 105. That's precisely what we are doing. Surely we can't hold ourselves above the law. And yet we are doing that.

In fact, if we were following the law as it should be followed, every member of this legislative Chamber should disqualify himself from voting on The Legislative Assembly and Executive Council Act. Every member!

Blackstone (3 Comm 299) cites a case from Y.B.8 Hen. 6, 18, 10, in which the Chancellor of Oxford claimed under a charter of Richard II the power to try an action of trespass brought against himself; which was disallowed because . . . from the common law courts in the case of *Dimes v. Grant Junction Canal* (1852) 3 H.L.C. 759, where Lord Chancellor Cottenham in a Chancery suit had made a number of decrees in favor of a canal company in which he was a shareholder to the extent of some thousands of pounds. It was not shown that his judgment was in any way affected by the shares, nevertheless, his decrees were set aside by the House of Lords on account of his pecuniary interest.

Now, Mr. Speaker, there is a very well-known phrase or selection which comes out of that case which was said by Lord Campbell at the time. I would like to bring that to the members' attention. But before I do I want the members to think about precisely what we are doing in debating Bill No. 105 and in voting on Bill No. 105.

We all have this pecuniary interest and we all have a personal interest. When the Hughes committee made these suggestions they were more reasonable and more realistic in following up on what Professor Hewitt says with reference to bias and with reference to the natural law. But today not one member including myself (and I hold myself in this number) has disqualified himself from participating in debate or discussion on Bill No. 105 because they have a pecuniary and a personal interest in the bill. That has not happened once since I've been a member of this Chamber – since 1975.

How can we sit in this Assembly and judge ourselves? But that's what we're doing when we discuss this bill. We judge ourselves, even though we have bias toward the bill of one kind or another. It is not reasonable. Now, I said, it is true, not one member disqualified himself or herself from voting on the bill in 1976 or 1978, or 1979 when these changes were brought into play. But, Mr. Speaker, we should be, if we were reasonable men and women. Lord Campbell said regardless of the outcome of the decisions, the judges were disqualified. Even if the decision could be shown to be totally fair and reasonable, the traditions and precedents of British common law states that the adjudicator or the judges may not decide on the case.

Now think about that. This isn't a slight interest we're talking about here. For many members of this Assembly it is their total income. It's a big interest. And the cases all

show that adjudicators shouldn't be required to adjudicate themselves. And here's what Lord Campbell said:

'With respect to the points upon which the learned judges were consulted, I must say that I entirely concur in the advice which they have given to your Lordships. No one can suppose that Lord Cottenham could be, in the remotest degree, influenced by the interest that he had in his concerns; but my Lords, it is of the last importance that the maxim that no man is to be a judge in his own cause should be held secret.

And that is not to be confined to a cause in which he is a party, but applies to a cause in which he has an interest.'

And no one could say that MLAs don't have an interest in this bill. Most would say MLAs are party to this bill. And not only to this bill, Bill No. 105, but to the act, The Legislative Assembly and Executive Council Act. Lord Campbell goes on:

'Since I have had the honor to be Chief Justice of the Court of Queen's Bench, we have again and again set aside proceedings in inferior tribunals because an individual who had an interest in a cause, took part in the decision. And it will have a most salutary influence on these tribunals when it is known that this high Court of last resort, in a case in which the Lord Chancellor of England had an interest, consider that his decree was on that account a decree not according to law, and was set aside. This will be a lesson to all inferior tribunals to take care, not only that in their decrees they are not influenced by their personal interest, but to avoid the appearance of laboring under such an influence.

Now, Mr. Speaker, I have been advised that there is a possibility, in addition to the Canadian Bill of Rights, that The Legislative Assembly and Executive Council Act can be challenged in total because the members have a pecuniary interest in the bill and in fact are judging themselves. I am advised that there is a possibility that the courts would hold that British common law would make it illegal for members in an Assembly to deal with payments to themselves. There is another reason why (and keep in mind no legislator has ever taken that matter to the courts to find out if the courts would so rule) I am advised that that in itself could be a reason to strike down The Legislative Assembly and Executive Council Act in the province of Saskatchewan.

Mr. Speaker, that surely must add weight to the fact that members of this Chamber should not proceed with Bill No. 105 lightly without obtaining proper and satisfactory legal counsel, without obtaining proper and satisfactory advice as to whether or not this bill, and in fact the amended Legislative Assembly and Executive Council Act could be struck down in total because of the pecuniary interest of MLAs in this Assembly who are making decisions on behalf of themselves.

You see, Mr. Speaker, we must, as well, attempt to follow basic precepts of the law and basic precepts of natural justice. We cannot hold ourselves above that law. No one has ever tested this part and I don't suppose it would be such a great thing for the legislators in Canada if anyone bothered to test this part. I believe that the legislator's function is to establish a law that removes any thought . . . And I believe that is what the member for Thunder Creek was attempting to say in the 1979 debate on the changes to The Legislative Assembly and Executive Council Act. He was trying to say that it is

distasteful for every member to bring this up in this Assembly and let's get it out of here. Remember Mr. MacDonald, the member for Indian Head-Wolseley, also said the same thing; it is distasteful for any member to bring this subject up. I don't think it is any less distasteful for members in the opposition than it is for members in the government. I think it is equally distasteful for them.

Then why, Mr. Speaker, have we not as a legislature, established a law that couldn't be attacked on that point that Lord Campbell raises in that very famous case? Why couldn't we establish a law that sent these matters to an independent tribunal? Then we are not deciding for ourselves. Then we are not adjudicating for ourselves. Then we are not judging for ourselves. The suggestion has been made before and it has been made by many. It is also being made by me. If that had happened in this particular instance, no amount of political pressure could have been exerted on any member to attempt to take away the rights of another member – no amount of political pressure.

The principle applies also to justices of the peace presiding at petty and at quarter sessions as shown in the case of *R. v. Cheltenham Commissioners*, (1841) 1 Q.B. 466, and also in the case of *Ex parte Steeple Modern Overseers* (1855) 19 J.P.292, where justices were hearing rating appeals affecting premises in which they held a proprietary interest.

The rule is also applicable to licensing justices. It was held in *R. v. Gee* (1901) 17 T.L.R. 374 that there were grounds for quashing the order of certain justices for the removal of a licence upon the grounds that such justices were disqualified from participating at the hearing of the matter owing to a pecuniary interest.

I am going to go on, Mr. Speaker:

Arbitrators are also subject to a similar rule . . . *Blanchard v. Sun Fire Office*, (1890) 6 T.L.R.

Local authorities acting in what is considered to be a judicial capacity are also subject to this rule (and I cite *R. v. Hendon R.D.C., Ex parte Chorley* (1933) 2 K.B. 1696).

. . . (inaudible interjections) . . . For the benefit of the members speaking from their chairs, I am sorry but that is how you quote these cases. They may sound like bingo numbers but they are not intended to. It is just the way to cite the cases. That is all there is to it.

The interest which at common law disqualifies an officer from acting in a judicial inquiry must be direct and certain, and not merely remote or contingent and the same principle must be applied to s. 39 of the Land Clauses Consolidation Act 1845.

Now, let's get that straight. There is an adjustment to this rule of bias. There is an adjustment to the rule that no man may be able to be a judge in his own cause (and however slight), but it must be direct and it must be certain. Now, can anything be more direct than a man voting on what his salary is going to be, or what his secretarial help is going to be? Can anyone say there is anything less direct than that? Is there a less direct pecuniary interest than that? I don't think so. That is so direct and such a direct statement that it is without question from anyone. It must be certain. I would cite

another case:

Again, in *Austen v. Rayner* (1958) 1 W.L.R. 1300, where the Court of Appeal held (inter alia) that, assuming that the Home Secretary in weighing the interests of the public service against the interests of the administration of justice and of individual litigants was to some degree acting judicially, the plaintiff ought on the facts, reasonably and without reserve, to have accepted that the Home Secretary's administration was 'without taint of bias'.

Now, what this said was, when a man is acting in his public capacity, even though there might be a slight interest (and we have rules with reference to the conflict of interest we heard discussed in today's question period), if the man was dealing in the public interest (with only this slight interest), that he is deemed to have no taint of interest. But that can't be said for The Legislative Assembly and Executive Council Act. It is impossible to say that, because in effect the members are voting for their own pecuniary interest, direct pecuniary interest. And we are a court, and for that reason we should not be judging ourselves. It is to be noted, cases also arise where an adjudicator's qualification is challenged upon the grounds of his association with, or conduct in relation to the cause of a party to the issue. This is a question as to the real likelihood of bias.

Now Mr. Speaker, I talked about pecuniary or personal interest, and I think I've been able to show that there is a direct pecuniary interest in The Legislative Assembly and Executive Council Act for members of this Chamber who are, in effect, judging themselves.

Now Mr. Speaker, another of the principles of bias that you have to understand is the probability of bias. As a matter of general principle courts don't concern themselves as to whether there was in fact any bias, but will inquire as to whether there was any probability of bias. The reason that this has happened, and the reason that this body of law has developed in England and in Canada, is to attempt to ensure that judicial agencies, and those purporting to act in a judicial capacity, and adjudicators, and, I believe – as I said, to my knowledge it has never been tested – legislators in the instance of this kind of act, don't only have to show there was a bias; all they need is a probability thereof. The entire act we're dealing with is the act that pays ourselves. That's obvious. No one can suggest that that's not bias. But can anyone doubt the facts of what has happened in the last few months in the province of Saskatchewan relative to the enactment, or the attempt at enactment of Bill No. 105? Can anyone doubt that there's bias in that bill? Certainly no courts would. But you don't even have to prove, Mr. Speaker, that the bias existed. All you need to prove is that there is the probability of bias. There must be something reasonably likely to influence the minds of the courts. And I'll cite the case *Allinson v. General Medical Council* (1894) that was said by Lord Esher, M.R. at pages 758-759.

The question is not whether in fact he was or was not biased. The Court cannot inquire into that. There is something between these two propositions. In the administration of justice whether by a recognized legal Court or by persons who, although not a legal public Court, are acting in a similar capacity, public policy requires that in order that there should be no doubt about the purity of the administration, any person who is to take part in it should not be in such a position that he might be suspected of being biased.

Now Mr. Speaker, can anything be more direct than that, in the traditions of the common law, of natural law? Mr. Speaker, that is so directly on point, I would like to repeat it. That is *Allinson v. General Medical Council* (1894) 1 Q.B. 750, said by Lord Esher, M.R.:

The Court cannot inquire into (the fact he was or was not biased.) In the administration of justice whether by a recognized legal Court or by persons who, although not a legal public Court, are acting in a similar capacity, public policy requires that in order that there should be no doubt about the purity of the administration, any person is to take part in it should not be in a such position that he might be suspected of being biased.

Now there you are, Mr. Speaker. The point was made strongly by Lush J. in *Serjeant v. Dale* (1877) 1 Q.B.D. 558, where he said at page 567:

The law in laying down this strict rule has regard, not so much perhaps, to the motives which might be supposed to bias the judge, as to the susceptibilities of the litigant party; one important object at all events is to clear away everything which might engender suspicion.

Should we not be doing that instead of trying to pass a bill like Bill No. 105 in this Legislative Assembly? Should we not be attempting to eliminate suspicion. As J. Lush said on page 567, ‘... one important object at all events is to clear away everything which might engender suspicion.’

Well in my judgment, Mr. Speaker, that is precisely what we should be doing. And again, the principle was confirmed by Lord Esher, M.R. in *Eckersley v. Mersey Docks and Harbour Board* (1894) 2 Q.B. 667. And I’m going to quote that but I want to draw Mr. Speaker’s attention to the fact that not only has Professor Hewitt attempted to cite the most famous cases, you will recall that when the member for Kindersley was in the Chamber last evening, I couldn’t recall whether that *Mersey Docks and Harbour Board* case was the case which I studied 25 years ago. In fact, I have checked and it is. This is an extremely famous case. Professor Hewitt quotes from it several times in his explanations of bias as it relates to the natural law. But because it is an extremely important case, it sets the foundation for all of the principles of bias in the administration of the law in England, Canada and in all of the British Commonwealth.

As a matter of fact, Mr. Speaker, it might interest you to know that *Eckersley v. Mersey Docks and Harbour Board* from 1894 is also cited in American courts as the landmark decision on bias, natural justice and the responsibilities of individuals who are placed in positions either judicial, administrative or pecuniary in which a trust is required to be established.

Mr. Speaker I am sure will be aware of the reason that this body of law has built up in the common law, and also why legislators have attempted to codify this law. We presently have a bill before this very Assembly on conflict of interest for MLAs. Mr. Speaker, if, as the Attorney General will know (and it’s fortunate that he has returned, because, as a lawyer, he will recognize it) we are to attempt to codify the common law into our statute law in Saskatchewan, we should be examining the principles of natural justice. Because, you will recall, Mr. Speaker, that unless a law is coincidental with natural justice, it will invariably fail. It will invariably have repercussions that are unthought of at the time it’s passed.

The point really is (and I wish I knew what it was) this conflict of interest law that we have brought before this Assembly should be attempting to put together all of these principles of natural justice for all of the members of the Legislative Assembly. But does it do that? The answer is no. Although, generally speaking (and I'm sure the Attorney General would confirm this), the statute law supersedes the common law, there are principles of common law that supersede statute law. I know the Attorney General will concur with this. And we believe that natural law is one of the areas of the common law which supersedes statute law because of that importance of maintaining that link between statute law and natural law.

Now, the decision in Mersey Docks and Harbour Board was that doctrine issues applied to judges, not merely of the superior court but to all judges. Not only must they not be biased, but even though it were demonstrated that they weren't biased, they ought not to act as judges in a manner where the circumstances are such that many people (not necessarily reasonable people) would suspect them of being biased.

You see what they are doing, Mr. Speaker. Do you see what the common law is saying? What the common law is saying is that we don't even have to have as direct a bias as appears in Bill No. 105. We don't even have to have as direct a bias as appears in The Legislative Assembly and Executive Council Act. We don't even need to have that much bias. All we need to have is the belief that many people believe that it's biased. Now, Mr. Speaker, if members of this Assembly are interested, I would be more than happy to prove that point if I thought that it would make them change their minds on Bill No. 105. If the Attorney General would accept a rather mild challenge, I would be happy to ask the people of Saskatchewan to write letters to say whether they believe Bill No. 105 is biased.

Now, you don't have to prove it to a reasonable person. In accordance with the common law tradition, you only have to prove it to many people. I have already read into this Assembly letters which I have received from prominent people who believe that Bill No. 105 is biased. I read into the record Howard McDonnell, the constitutional legal expert in Saskatoon. I read into the record a note I received from an eminent western Canadian jurist. I could go on and name others and bring other evidence to bear on this matter in this Assembly.

But in accordance with the natural law, the principles of natural law, I don't even have to do that. All I have to show is that many people think it is biased and that you shouldn't be allowed to judge yourself. That's the principle of the common law. We have no statute that supersedes that. We have no statute that overrides that. As a matter of fact, quite the contrary – we have statutes that protect against it.

Why then, Mr. Speaker, would members of this Assembly want to spend that extra \$10,000 a day of the people's money? Why? To hear all these arguments so that maybe they might change their minds? If that's the case, I'm going to keep making them. To hear all these arguments, to think that you can be talked out? Well if that's the case, it's possible. No one is superman and there are limits to anyone's endurance, I'm sure. I'm sure there are even limits to mine. Why then would they want to spend this extra money?

Is it the principle? Last evening they couldn't even come up with a principle from their chairs. The member for Biggar couldn't establish one single principle when he presented that bill – not one! I'd be happy to refer all hon. members to the member for Biggar's speech, which happened some time ago, but I don't know whether that's in

order. Mr. Speaker, I ask your guidance on that. Is it in order for one member to cite from the mover's speech in the debate? Is that in order?

MR. SPEAKER: — The member may discuss anything the mover said in moving the second reading of the bill.

MR. COLLVER: — Thank you very much, Mr. Speaker. I intend to do just that. Further on in the debate, I intend to go back to show that the member for Biggar mentioned not one single principle of the bill when he moved it. That's key to the debate. Surely, that's key to this Assembly. The members opposite have said, let us get into the debate. Fair enough. Anytime you like. You know that, Mr. Speaker. But the first principle of debate is that the mover has to present the case. Perhaps the members don't recognize the generally accepted rules of debate. First the mover moves the principle and explains the case. Then the advocate presents the defence. Then the mover comes back, or someone from that side, and rebuts. Then you allow the advocate the chance to rebut and then you let the mover finish it off. That's the principle of debate. That's what the whole system is all about. That's why it's done. But first of all, the mover has to say something. The mover can't stand in his place . . .

Mr. Speaker, I intend on Monday if this bill is called (and I suspect the NDP is going to call it, so I'll be prepared) to bring to this Assembly the total statements of the member for Biggar on moving this bill. I'll bet you they wouldn't take up two pages. They're very short, very brief and there is not one principle on which this bill is based – not one! This is a very simple housekeeping bill.

Well you see, Mr. Speaker, that's not the principle on which this debate is supposed to occur. I intend to show how badly and how poorly the member for Biggar presented that case to this Assembly on Monday. I'll tell you what else I intend to do. I intend to show, from having various discussions with members in his backbenches, that it was probably the member for Biggar who has misled them. He misled not the members of this House, but his very own colleagues in his caucus about research moneys in this Assembly. He misled them about research moneys in this Assembly, about what the bill does. He misled them! I intend to show that and then it will be up to the members of this Assembly to decide whether in fact it is more than it appears to be on the surface.

You see, Mr. Speaker, if you don't need to show bias, if all you need to show is a probability of bias in a judicial body then I think I have more than made the case that Bill No. 105 should not be proceeded with. Now, Mr. Speaker, in administrative law there are certain circumstances where it may be important to prove actual bias. Now here we're going to get – (inaudible) – for judges and people deciding for themselves and I would say that was without doubt where we fall.

But now we have to go to certain instances of administrative law which would refer to people like civil servants and things like that. There are certain circumstances where it may be important to prove actual bias. For example, voluntary associations such as clubs, trade unions, school boards, committees and similar organizations have certain powers over their members and the right to reject or expel members.

Now, you can see, Mr. Speaker, (since this text by a Professor Hewitt has been written) that he didn't write it in context with The Saskatchewan Trade Union Act because you certainly wouldn't suggest that a trade union in Saskatchewan was a voluntary organization. That is untrue. The act itself makes certain requirements that people belong to trade unions. But I think with that exclusion, with that exception, clubs, trade

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unions, school boards, committees and other similar organizations have powers to expel.

You notice, Mr. Speaker, that in that dissertation there was absolutely no mention of political party. Did you notice that? A political party for references of bias appears not to be an organization and not to be an association. As a matter of fact, Mr. Speaker, it might also interest you to know that a political party interestingly enough has absolutely no legal status whatsoever. A political party isn't an association; it is not a company; it is not an organization or a trade union. I think the Attorney General will concur with this. He is the only lawyer left in the House. I think I'm making a correct statement here. He's still not paying attention and I wish he would.

Mr. Attorney General, while I'm giving this discussion . . .

MR. ROMANOW: — Mr. Speaker, I wonder if you would care to consider it 1 o'clock if all members would agree to 1 o'clock, and give the members six minutes of reprieve?

The Assembly adjourned at 12:54 p.m.