

**LEGISLATIVE ASSEMBLY OF SASKATCHEWAN**  
**Second Session — Nineteenth Legislature**

**Monday, June 9, 1980.**

The Assembly met at 2 p.m.  
On the Orders of the Day

**WELCOME TO STUDENTS**

**MR. C.O. WHITE (Regina Wascana):** — Mr. Speaker, it gives me a great deal of pleasure to introduce to you and other members of the Assembly 15 students from Peart School accompanied by their principal, Mr. Needham, and another teacher, Miss Brydon, seated in the Speaker's gallery. I very much enjoyed my visit to their school during pitch-in week when we did a bit of work on the school yard, and everyone received Celebrate Saskatchewan pins. I hope members of the class, or some at least, have had an opportunity by now to look at The Pictorial History of Saskatchewan which they received at that time. I also hope that you enjoy your visit to the legislature today and that you find the question period interesting and informative. I will be meeting with them later for pictures and refreshments. Thank you.

**HON. MEMBERS:** Hear, hear!

**MR. R. KATZMAN (Rosthern):** — Mr. Speaker I would like to welcome 18 students from my constituency. They are from South Corman Park School. It's the newest school in my constituency. They are sitting in the east gallery. There are 18 students from Grade 6, and I'll be joining them later to chat and for a picture.

**HON. MEMBERS:** Hear, hear!

**QUESTIONS**  
**Protection of Rail Lines**

**MR. E.A. BERNTSON (Leader of the Opposition):** — Mr. Speaker, in the absence of the Minister of Agriculture I'd like to direct a question to the Acting House Leader or whoever is in charge over there today. Last Friday, the federal Minister of Transportation announced his intention to rescind the orders in council passed by the former minister of transportation that relate to the protection of rail lines in the Prairies. Now this defies all logic and common sense, and is not in the best interest of the prairie provinces. I wonder (and I know you'll have to take notice of this) if you will ask what representation your Department of Agriculture has made, or your government has made, to the federal Minister of Transportation to see that these orders in council are not rescinded, that they do act in the best interests of the prairie provinces.

**HON. W.E. SMISHEK (Minister of Municipal Affairs (Urban)):** — Mr. Speaker, the Minister of Rural Affairs is prepared to deal with the question.

**HON. E.E. KAEDING (Minister of Municipal Affairs (Rural)):** — Mr. Speaker, first of all I think I should take notice of the question for the minister, because I think he will want to give a more detailed report. I can assure the members opposite that the minister will be dealing most forcefully with this particular item, and I can assure them that he will be dealing with the members of the grain companies trying to develop some kind of counter-policy to what was announced last Friday.

**MR. BERNTSON:** — While the minister is taking notice, I wonder if he would also ask the Minister of Agriculture, while he is communicating with Ottawa, if he would also exercise what influence he has on the federal member for Yorkton-Melville, whose actions in the House prevented the Neil report from being tabled. Had that not been done, those rail lines would have been protected today.

**MR. KAEDING:** — Well, Mr. Speaker, of course I wouldn't accept that on the part of the member opposite. However, I will refer that matter to the minister and I'm sure that he will respond to it adequately.

**MR. BERNTSON:** — Would the minister not agree that grain companies and elevator companies cannot plan or do any marketing analysis, etc. unless or until there is some definitive statement relative to these branch lines, and that what we need now is a definitive statement as to what's going to happen to these branch lines, get them on the books and keep them there and get the grain moving?

**MR. KAEDING:** — Yes, Mr. Speaker, I agree whole-heartedly with what the member opposite says. I think it's most unfortunate that the government in Ottawa should have made the kind of statement and brought the kind of uncertainty back into the branch line and the redevelopment program in the grain handling system which this has done. I am sure that we will be taking all the steps we can to try to reverse that.

#### **Movement of Grain to Eastern Canada**

**MR. L.W. BIRKBECK (Moosomin):** — Mr. Speaker, I would direct a question to the former minister of agriculture in absence of the minister. As a direct result of the recently announced drought relief program by the Minister of Agriculture, the Canadian Wheat Board issued a stop order on all movement of non-board feed grains to eastern Canada. Interestingly enough, Mr. Minister, that was followed by an allocation of boxcars for movement of grain to eastern Canada. I wonder if you would, in taking notice of this question, advise the Minister of Agriculture that he might co-ordinate this obviously unco-ordinated series of events that have taken place since the announcement of the drought relief program?

**MR. KAEDING:** — Yes, Mr. Speaker, we have had some conversations with regard to that and certainly we were concerned with the conflict of orders which were coming from the Canadian Wheat Board on that particular issue and I'm sure that the minister has already undertaken some conversation with the board on that matter.

#### **SGEA Resolution No. 34**

**MR. P. ROUSSEAU (Regina South):** — Thank you, Mr. Speaker. A question to the Minister of Finance. Mr. Minister, I have in my hand Resolution No. 34, passed at the recent annual convention of the SGEA (Saskatchewan Government Employees' Association), which in effect assesses 80 per cent of their salaries as dues from those members of the union who crossed the picket lines and which in effect is a punishment against these members. Have you considered or have you looked at the legality or the illegality of this particular resolution?

**HON. E.L. TCHORZEWSKI (Minister of Finance):** — Mr. Speaker, the Public Service Commission has been looking at the resolution. I have not personally been involved in it and I do not yet have a report on it. Clearly it is a matter within the jurisdiction of the

Saskatchewan Government Employees' Association in that it is an internal union matter. My first assessment of the situation is that is where it should and will lie. Meanwhile, until I receive a report from the Public Service Commission in more detail, there's nothing more that I can add.

**MR. ROUSSEAU:** — Mr. Speaker, in answer to the minister, it is not quite an internal matter since it will be your responsibility to provide information from the pay roll. Have you made that decision yet as to whether or not you will provide pay roll information to the SGEA in order for them to assess the proper amount from those members who crossed the picket lines?

**MR. TCHORZEWSKI:** — As part of the collective bargaining agreement which exists and which has existed prior even to the present one, it is a requirement that the Public Service Commission does provide to the SGEA the payment that is made to the employees who are members of the SGEA. That happens on a regular basis.

**MR. ROUSSEAU:** — Mr. Speaker, the minister avoided my question. I'll repeat my question. I am aware that you submit the payment. My question is, will you inform the SGEA as to the amount of money these people earned, in other words, the pay roll information so that they assess 80 per cent and will you then take the 80 per cent from their next cheque to submit to the SGEA?

**MR. TCHORZEWSKI:** — As far as I know, Mr. Speaker, the request has not come forward to the Public Service Commission from the SGEA that such a deduction take place and until it does, I will not be in a position to decide on it.

**MR. ROUSSEAU:** — Final supplementary, Mr. Speaker. The minister has still avoided my question. Will you provide the information from the pay roll?

**MR. TCHORZEWSKI:** — Well, as far as I know (and I might be corrected on this), that information is provided, Mr. Speaker, on a regular basis, as I indicated in my first response to the member's question. The pay roll information, as to who is on the pay roll, and the payments that are made, is provided to the SGEA on a regular basis, and I do not see why that should change.

### Boating Safety

**MR. R.A. LARTER (Estevan):** — Mr. Speaker, a question to the Acting Premier. Could the minister inform this House if there are any instructions from the Attorney General's department on getting tough about life preservers in boats throughout the province, and is there an order out to go after people without life jackets?

**MR. SMISHEK:** — Mr. Speaker, I am not aware of anything that indicates the Attorney General's department would have been issuing get-tough orders. As the hon. member perhaps knows this comes under the federal jurisdiction, federal law, and not provincial law. While we do have the responsibility of enforcing the law by agreement, it comes under federal jurisdiction, and I'm not aware of the Attorney General's department issuing any get-tough orders.

**MR. LARTER:** — Thank you, Mr. Speaker. Mr. Minister, the RCMP over the weekend was stopping all boats and forcing the boats in to shore for not having Department of Transport-cleared life jackets. Do you realize that every store in this province is permitted to sell jackets that aren't legally usable in boats throughout this province?

Are you, as government, going to do something to stop these life jackets from being sold in the province?

**MR. SMISHEK:** — Mr. Speaker, I believe that since it is under the federal jurisdiction, and the federal Department of Consumer Affairs is also an agency that has the responsibility of testing quality of products, I will be prepared to take the matter as notice, and to inquire whether the Department of Consumer Affairs of the Government of Saskatchewan has taken any action, or is examining the matter, as well as to inquire what steps, if any, have been taken by the Attorney General's department.

### **Licensing of Antique Vehicles**

**MR. G.M. McLEOD (Meadow Lake):** — Mr. Speaker, a question to the minister responsible for the highway traffic board. Mr. Minister, you will no doubt be aware, and I am sure all of us are aware, of the special role played, especially during this summer season, by owners of antique vehicles in all districts in the province in helping communities to celebrate their parades, homecomings, and so on. Will you this year, in view of the fact it is our Celebrate Saskatchewan year, give consideration to special licensing provision for these antique vehicles so they don't have to go through the annual red tape of picking up permits, and so on, to take part in their community functions?

**HON. E. KRAMER (Minister of Highways and Transportation):** — Mr. Speaker, the licensing of vehicles is under the jurisdiction of my seatmate, the Hon. Wes Robbins, and I'll take notice. We have accommodated these vehicles before, but it's not directly under me. I'll take notice and see that the minister advises. I am sure that I can say without even inquiring that everything possible is being done to make Celebrate Saskatchewan the success that it's going to be.

### **Family Life Programs**

**MR. H.J. SWAN (Rosetown-Elrose):** — A question to the Minister of Health. On June 2 you were quoted as saying that you will push for an increase in the number of family life programs in Saskatchewan schools, in response to a growing number of teen-age pregnancies in the province. My question to you is, have you any research which would indicate that an increase in family life education will indeed cause a decrease in teen-age pregnancies?

**HON. H.H. ROLFES (Minister of Health):** — No, Mr. Speaker, I have no such research with which I could back this up. But I do believe that an informed mind would probably be able to act in a more rational fashion knowing what the consequences may be of being sexually active. If many of our young people are going to be sexually active (and they obviously are because we do have a high number of pregnancies, not only in this province but across the country), then what we have to do (and my response was, Mr. Speaker) is instil in our young people a knowledge of sexuality. Along with that, Mr. Speaker, I indicated very clearly that we have to instil in our people individual responsibility for their actions.

Further to that, Mr. Speaker, I indicated my priorities were that family planning should be done by the parents, first of all. Secondly, it should be done by the church. Thirdly, I thought it should be done by the schools. If all three of those failed, there would be only one other alternative where our young people could learn, and that would be on the

streets. That, Mr. Speaker, was unacceptable to me.

**MR. SWAN:** — Mr. Minister, the research which has been done in the United States would point out that the teaching of family life education has not caused a reduction but an increase in teen-age pregnancies. I think perhaps I should encourage the minister to try to read some of that research. Why would you proceed to make a statement like you made in Saskatoon without first having adequate information at your disposal?

**MR. ROLFES:** — Because, Mr. Speaker, I am a responsible individual. Mr. Speaker, I feel that one cannot keep his head in the sand. As Minister of Health I am concerned about the number of teen-age pregnancies. What the member is trying to tell me is that all those parents who have been teaching their youngsters and their children family life education programs (and this has been done for many, many years) are being irresponsible in telling their children or getting their children informed about sexuality; that doesn't make sense. I think there are many parents who are responsible. There are parents who have relegated that responsibility to the schools and to the churches. That is their responsibility and their right. . . . (inaudible interjection) . . . If the shoe fits, wear it, member of the opposition.

Mr. Speaker, I indicated to the Pro-Life group which I met with, that I felt informed individuals, young people who were informed about sexuality, would be able to behave and to react more responsibly than those who were not informed or ill-informed.

**MR. SWAN:** — Supplementary to the minister. Mr. Minister, when I was raising this, it was with regard to sex education in the schools. In your reply you went off on a tangent and raised sex education at home by the family. That is quite a different thing. If you are in agreement that sex education should be taught at home, will you go out and say that to the public rather than state that it should be taught in the schools? That is the concern.

**MR. ROLFES:** — Mr. Speaker, the member does not observe very well. I told him already my priorities are that the first and primary responsibility for sex education rests with the parents. It is a fact that many parents do not do this today. They do not. They either feel uncomfortable about teaching sexuality to their children or they have relegated that responsibility to the schools. What I am saying to the member opposite is that the parents have the right to relegate that responsibility to the school systems, if they so see fit.

I indicated to the Pro-Life people that they should immediately have a meeting with the school boards to make sure they have those kinds of programs and material in those programs that they could accept. However, I still indicated to them it would be my preference that sexuality be taught by the parents.

I recognized, however, because we have the family breakdown, many of our marriages end up in divorces, many are separated, we have many single parent families who simply cannot accept this responsibility, or are unwilling to do so. I therefore say our society has a responsibility to make our young people aware of and knowledgeable about sexuality. Mr. Speaker, I think that is a responsible position to take, and that many parents would accept that.

#### **Business of the Legislature re Bill No. 105**

**MR. W.C. THATCHER (Thunder Creek):** — Mr. Speaker, a question to the government

House Leader, and we will all wait with bated breath to see who that may be. Mr. House Leader, (whoever he is) I note today that Bill No. 105 is going to be called again. If I am not mistaken that will make the sixth or seventh consecutive day on which Bill No. 105 has been called. My question to the House Leader is simply this: how much longer do you intend to play this game, how much longer do you intend to prevent the business of this legislature from being carried out, how much longer is it going to be before we in the opposition are going to be able to deal with questions such as agricultural estimates, the Executive Council, the Attorney General's department? In other words, when are you going to allow the MLAs in this Assembly to earn what they are being paid to do?

**MR. SMISHEK:** — Mr. Speaker, Bill No. 105 is part of the business of this House. Perhaps the hon. member might consult with his former political leader as to how long he wants to debate the issues, since they have been friends and colleagues. So long as the hon. member is still interested in personally debating the bill, we will give him every opportunity to express his views.

Obviously the members of the opposition are also interested in this matter being debated because the hon. member on several occasions tried to adjourn debate on Bill No. 105 and we felt he should continue speaking. The members of the opposition have agreed with us so far.

**MR. THATCHER:** — A supplementary question to the minister. Did you say final, Mr. Speaker? Oh, isn't that interesting. We've already decided that it's over before I've asked my question.

**MR. SPEAKER:** — Proceed.

**MR. THATCHER:** — I have a supplementary, Mr. Speaker, in fact, I have a couple, but I'll try to get them both into this one. Mr. Minister, by the time today has been concluded (assuming that the member for Nipawin is able to go until 10 o'clock this evening) will the House Leader concede that the amount of money going to the Unionest Party has been spent on the cost of paying MLAs, support staff and everything else that goes into keeping this legislature open? Will you acknowledge that we have already spent more than that amount of money? Will the House Leader also acknowledge that, in light of the fact that this is a record session, in light of the fact that some MLAs have other things to do than to waste the taxpayers' money (perhaps even under false pretences here), it is now time for the minister to call other business and let us proceed with the normal business of this Assembly, and let the member for Nipawin talk at a later date until the cows come home?

**MR. SMISHEK:** — Mr. Speaker, I'm not in a position to either confirm or deny anything in terms of the amount of money which has been spent. It is very difficult to calculate or determine the money spent on legislative work, and how valuably it is spent from time to time. I'm sure there have been those, on occasion, who have wondered whether the money was being spent wisely when the hon. member has been on his feet from time to time. However, we always gave him the benefit of the doubt. We've listened to him, sometimes agreeing with him, sometimes disagreeing with him. That's the way the parliamentary process and democratic process work. In terms of MLAs wanting to do other things, I don't think that this House has ever denied any member to do other things from time to time if they felt it were more pressing and more urgent for them. I have noticed that the hon. member quite often has been absent from this House. Obviously, he made a priority that it was more important that he do something else in

his constituency or be away doing other business than to be here.

### Reasons for Not Calling Closure

**MR. THATCHER:** — New question. Mr. Speaker, might I then ask the minister and the House Leader if it is a fair conclusion to draw from your comments that you are in effect saying that someone in 35 hours is unable to make a point? Are you saying that after allowing this one individual 35 hours that he is being denied freedom of speech and he may not have had a sufficient opportunity to make his point? Isn't it true that the reason you don't call closure is because you are playing a foolish political game with taxpayers' dollars by keeping him up? Because you are keeping us from getting on with the pressing business of agriculture and the Attorney General that everybody knows has these terrible stories in it.

**MR. SMISHEK:** — Well, Mr. Speaker, the Hon. Leader of the Unionest Party has obviously heard the remarks of the member for Thunder Creek. Perhaps he might take heed and take his advice since they have been very close working partners in the past and influenced each other from time to time in one form or another. Perhaps he might take the advice because I'll tell you, during the course of the debate, I thought he had made his point repeatedly so perhaps he might take heed today. It's a new week. In terms of closure, the freedom for closure rests with everybody. The hon. member is just as free to move a motion of closure as anybody else is in this House.

### Use of the Wang Computer by Sask Tel

**MR. R.L. ANDREW (Kindersley):** — Question to the minister in charge of Sask Tel. Earlier in the session, Mr. Minister, you indicated that Sask Tel was going into the computer business. Now I understand that presently there are negotiations going on between Sask Tel and the Wang computer company. Could the minister advise the Assembly if Sask Tel has decided on the Wang computer as a machine they're going to use?

**HON. D.W. CODY (Minister of Telephones):** — Mr. Speaker, the answer is yes, we have decided that we will be using Wang word processing equipment.

**MR. ANDREW:** — Will the minister advise the Assembly at the initial stage, is it your intention to simply use one word processor; in other words, the only machine that you will be using will be the Wang word processor?

**MR. CODY:** — That is correct.

**MR. ANDREW:** — Final question, Mr. Minister. As you know, that company is an American company. Did the minister not at all look at the possibility of using Canadian manufactured hardware in the communications industry as opposed to having to go to a Boston outfit?

**MR. CODY:** — Mr. Speaker, we certainly did look at other word processing hardware. There's no question about that. We don't rush into things that quickly. We do all kinds of studies in-house and we have various people advising us as to what type of equipment we should be using, whether that be in computers or telephones or fibre optics or you name it. We always have studies done for us and we follow certain recommendations by the people who do this kind of work for us. Most of the time the people who make the recommendations would be our own staff. We have very qualified staff on hand who, in this particular case, indicated to us that the Wang word processing equipment was the

best they could recommend to us. They made that recommendation and we, as a board of directors, decided it would be the equipment we would use.

**MR. ANDREW:** — Mr. Minister, as I understand Bell Telephone and various provincial telephone companies have rejected the Wang system in favour of a Kado system or other types of computer hardware. Would the minister not admit it would make sense if you are going into the computer industry, that you would have a system similar to other telephone companies in Canada so there could be an interchange of both the hardware and the software programs of the various machines?

**MR. CODY:** — Well, it is pretty obvious the member doesn't know anything about software because software programs are compatible with other pieces of equipment whether you use the Wang equipment or whether you use the other equipment. You can make them adaptable. All you have to do is simply use the various mechanisms available to you and you can get the software packages to work on different hardware. With regard to the hardware, if the member did a little bit of research throughout the country, he would find that we are not the only telephone company that uses or will be using Wang hardware. It is being used in Newfoundland, in New Brunswick, and as I understand it, B.C. Tel uses it as well.

### INTRODUCTION OF GUESTS

**MR. SPEAKER:** — I want to take this opportunity to make an introduction and I draw all members' attention to an important group of visitors we have in the Speaker's gallery today. This large delegation from southeast Asia has nine members in it; six of them are from Malaysia and three of them are from the city-state of Singapore, both members of the Commonwealth. I want all members to join with me in welcoming them. Later today they will be visiting a Saskatchewan farm and a Saskatchewan grain elevator and tomorrow they may have a brief nodding acquaintance with potash in some form or other, although they don't have time to go down a mine shaft on this particular trip.

This delegation is on a cross-Canada tour and for the short time they are here in Saskatchewan, the members will want to make them welcome. The Malaysian delegation is headed by the Hon. Abu Hassan Bin Haji Omar and the Singapore delegation is headed by Dr. Yeoh Ghim Seng who is the Speaker of the Singapore Assembly. I would ask those gentlemen to rise.

**HON. MEMBERS:** Hear, hear!

**HON. W.E. SMISHEK (Minister of Municipal Affairs (Urban)):** — Mr. Speaker, on behalf of Premier Blakeney and the Government of Saskatchewan, I extend a welcome to the parliamentarians from Malaysia and Singapore. I express the hope that their visit to our province will be a rewarding experience and that they will have fond memories of their visit to Saskatchewan for many years to come. May I also express the hope that their visit throughout Canada is going to be a rewarding experience. As the delegation representatives from those two countries may be aware, Canada at the present time is having some problems and difficulties. We are presently involved in a constitutional conference. Premier Blakeney and all the other premiers of Canada are today meeting with the Prime Minister. We are looking with certain anticipation and some new hopes that this conference will be very productive and very useful in keeping our country united and progressive and that we can share our experiences with you in the years ahead.



**HON. MEMBERS:** Hear, hear!

**MR. D.G. TAYLOR (Indian Head-Wolseley):** — Mr. Speaker, on behalf of the opposition I would like to welcome the delegation from Singapore and Malaysia to Canada. I hope you have enjoyed your visit to Canada and especially to the province of Saskatchewan. I hope you enjoy the session which is taking place in our legislature this afternoon. I believe this evening there is going to be a banquet. From our side the member for Maple Creek, Mrs. Duncan, and I will be joining you for supper and we look forward to a discussion with you at that time.

**HON. MEMBERS:** Hear, hear!

## 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, I didn't rise to welcome the members from the other two Commonwealth countries. They certainly left quickly so I won't continue with that.

Mr. Speaker, there seems to be a little problem with the microphone. If you just give me a moment, I will attempt to become a little more efficient. Can every member now hear satisfactorily? I wouldn't want, Mr. Speaker, any member to miss one iota of any remarks I might have to make with regard to Bill No. 105. I say that for all members.

Before the Acting House Leader, in conducting his business of the Assembly, leaves the Assembly, I do want to draw one thing to his attention about his remarks during question period. It is very brief, Mr. Speaker, and it is about his remarks with regard to Bill No. 105. I think this exemplifies the kinds of remarks made by ministers opposite . . .

**MR. SPEAKER:** — If I allow the member to proceed, he will be out of order, because we are not at this time allowed to discuss what went on in the question period. The question period is done and closed. All the member for Nipawin can discuss now is the principle of Bill No. 105, which is before us, and I trust that I won't have to ask the member to adhere to the discussion of the principle any more today.

**MR. COLLVER:** — I do want to say though, Mr. Speaker that the remarks which I have made in opposition to Bill 105 have been attacked by members opposite, and I refer you to a newspaper article with reference to the Attorney General, Mr. Romanow, and his remarks. Mr. Speaker will recall I have read them to the Assembly before; he said the bill will go through sooner or later with the majority government vote. I have told members opposite on many, many occasions, that if it is going to go through anyway, if their minds are not capable of being changed on the principle of Bill No. 105, then they should introduce closure. Mr. Speaker will know that under Rule 31, page 23 of the rule book, it specifically states that closure may only be introduced by a minister of the Crown rising in his place.

I would ask you, Mr. Speaker, to realize and recognize that it is that kind of statement which has been bandied around in Saskatchewan, and throughout the discussion of the principle of Bill 105, that is causing confusion in people's minds. And I wonder, Mr. Speaker, whether it is confusion on the part of the members opposite and confusion on the part of, specifically, the former minister of finance and member for Regina North-East, that is bringing about this kind of confusion, and misunderstanding of all of the principles of Bill 105.

**THE SPEAKER:** — The Acting House Leader has not entered this debate; therefore he said nothing in this debate. Therefore the member for Nipawin can't attribute thoughts or words to the member for Regina North-East because he hasn't been in the debate. Therefore, the member is out of order. I try to get the member to stick to the principle of the bill that's before us.

**MR. COLLVER:** — Yes, Mr. Speaker. I'm terribly sorry. I thought he had spoken on the bill, if not, certainly during the course of this particular debate, at other times, either inside or outside the legislative Chamber. And I thought, Mr. Speaker, it was my right to speak in reference to things that members have said outside the Chamber or inside the Chamber, relative to the principle of Bill 105.

However, we certainly won't carry that further. Now, Mr. Speaker, before I get on with the fascinating topic of bias and natural justice, because the ramifications of that, I think are extremely key with reference to the bill, I do wish to bring to Mr. Speaker's attention some remarks made in the Saturday issue of the Regina Leader-Post by one Morris Shumiatcher, a Regina lawyer and free-lance writer, with reference to Bill 105.

Now, Mr. Speaker, he wasn't commenting on the procedures in this Chamber. Mr. Speaker will be aware that Beauchesne is quite specific about not being able to comment on press articles about proceedings in this Chamber. But Mr. Speaker will also be aware that it is important for members of . . . (inaudible interjection) . . . Well, every member of the House. The member for Thunder Creek wanted to bring up from his chair that we comment on press articles. Well, every member does, but Mr. Speaker will be aware that Beauchesne is quite specific in that it states that you may not comment on a press article which is commenting on the procedures of the House. But I think Mr. Speaker will be aware that you can comment on a press article that is pertaining to the issue before the Assembly. After all, Mr. Speaker, it is only fair and reasonable that if one individual, such as Mr. Shumiatcher, can set himself up as an expert, in so far as the people are concerned, and pass along this article to the people of the province, making certain suggestions to the government members with reference to Bill 105 and to his legal interpretation of Bill 105, I think that it is extremely important that members in the House understand, first of all, what are Mr. Shumiatcher's qualifications to speak. That's first of all. What are his qualifications to present himself as an expert on this matter? And, secondly, they should hear countering arguments to Mr. Shumiatcher's comments, since he is attempting to speak as an eminent Regina attorney and expert on everything.

Now, Mr. Speaker, in commenting firstly on the qualifications of this author to make a presentation to the people of Regina, as he did on Saturday, I have never been able to quite understand why the Regina press corps seems always to run to Morris Shumiatcher for his comments and opinions on every single subject from soup to nuts. I have never been able to quite understand that. If Mr. Speaker desires, I will table this article so Mr. Speaker can have the article before him and understand the comments made by this gentleman in the Regina Leader-Post. I will if Mr. Speaker so desires (he

hasn't asked me to, so I won't but when and if he does I would be able to table this item) so that Mr. Speaker will be fully aware that this man is not commenting on procedures of the House. He is only commenting on the principle of the bill.

Now, to comment further on these qualifications . . .

### Point of Order

**MR. THATCHER:** — Shocking as it may sound, I am attempting to listen to the member for Nipawin and I'm getting very sick and tired of that raucous conduct from the other side. If he's got a point of order over there, then I wish he'd make it or acknowledge it, but it is most annoying, unparliamentary and everything else that goes with it. If he's got something to say, he should get out of his chair.

**MR. SPEAKER:** — I want to say, for all members of the House to hear, that at any time I can get the member for Thunder Creek to support me on a point of order about the decorum in this Chamber, I'm going to take advantage of it. And I will say to all members of the House that if they have something bothering them about a point of order, they should state it on their feet and not on their seat. It's a rule in this House and if members have a point of order they should raise it before the House. I want to say that even though there was some undercurrent of noise in the Chamber, I was able to hear the member for Nipawin quite clearly.

**MR. COLLVER:** — Thank you so much, Mr. Speaker. I'm sure that having called the House to order, it will definitely be in order. Now I would like to make these few brief comments about the qualifications of Mr. Shumiatcher to bring forward this legislation. I've often wondered about the press corps in Saskatchewan and why they keep running to this fellow. I wondered about this through personal experience. I wondered about this through a great many experiences when they kept running to this fellow although there were many eminent attorneys in Regina who could answer any number of questions. It suddenly came to me last week, when a member of the Saskatchewan press corps (who shall remain nameless) came to me and said he had taken Bill 105 to a Regina lawyer to get his opinion on what I'm doing. I said, who did you take it to? And he said Morris Shumiatcher. I said, why in the world did you go to Morris Shumiatcher? And he said because he doesn't charge us; our regular lawyers charge us, but Morris Shumiatcher does it for nothing.

I thought that was a very interesting point of view in the light of experience that I knew of from one of my former clients, a very substantial client, who on another totally unrelated matter had gone to this particular lawyer and asked him if he would represent him in a particular matter. Mr. Shumiatcher, in his so-called charge-free fashion, said, before you can sit in my office you must pay \$5,000. Now these people were not very rich; they didn't have a lot of money but they were required to give him \$5,000 as a retainer to sit in his office to tell him about their problem. After that Mr. Shumiatcher made one telephone call and wrote one letter on behalf of that client.

The person became disenchanted with the work that Mr. Shumiatcher had conducted for him and he went back to him and said, that's not reasonable; give back my money. Mr. Shumiatcher's answer was, no, I won't return your money; you paid it as a retainer and that's it; that's my fee. Now thank goodness this particular client came and asked me about it. I said that's not proper and you should go to a court of law and have the work tariffed. This client did that; they had it tariffed and Mr. Shumiatcher found himself in the position of having to refund most of the money.

But I say to you, Mr. Speaker, that the Regina press corps in its enthusiasm and the Regina Leader-Post in its enthusiasm for this lawyer, who doesn't charge anything to the press, go out and invite the opinions of this particular individual on every subject from soup to nuts. They obviously solicited his opinion on Bill No. 105 because he presented it in the newspaper on Saturday evening.

Now, I'd like to briefly mention, Mr. Speaker, some of the less well-known qualifications of this individual so that members will know how much stock to place in the article which appeared in the Regina Leader-Post. I think that's important, Mr. Speaker, because members have undoubtedly read that article and are perhaps interested in Mr. Shumiatcher's opinions. I thought it would be extremely important that they find out something about the background of this gentleman.

Now, Mr. Speaker, any of my remarks today I am prepared, for the benefit of the press corps, to repeat in the corridor outside this Chamber. I pass that along to them so that they are well aware that any time they like, I will repeat these very remarks outside.

Mr. Speaker, because the Regina press corps has been overenthusiastic about Mr. Shumiatcher, people may be impressed with the initials after his name. I would like to refer to the Western Weekly Reports, Saskatchewan, 1948 in which a justice, one Justice C.J.K.B. Brown of the court in Saskatchewan reported as follows:

I notice that the learned counsel for the Minister of Natural Resources . . .

Oh, surprise, surprise! Isn't that a surprise, Mr. Speaker – the counsel for the Minister of Natural Resources? Who was the government back in 1948? – the CCF! Isn't that a shock! Isn't that a surprise!

The counsel for the Minister of Natural Resources signs all documents signed by him and endorses all documents filed by him as follows: Morris C. Shumiatcher, Esq. BA, LLB, LLM, Dr. Jur., Barrister and Solicitor, Regina, Saskatchewan.

This is so unusual as to call for comment.

And I say this, Mr. Speaker, for the benefit of all members and for the benefit of the press because this is what this judge reported.

Those several indications of academic attainment can and will no doubt be recognized as meritorious and in other circumstances may be appropriately displayed but they no way assist in the argument which the learned counsel is called upon to make. In my experience, counsel who support such marks of distinction with most credit to themselves are careful to suppress them in legal proceedings.

It may be that in some instances the temptation to emphasize can be attributed to a worshipful stenographer and in such cases the matter can, of course, be overlooked.

The point being, Mr. Speaker, that this individual is not quite as meritorious in so far as the judges of Saskatchewan are concerned or in fact his peers. I am about to get to that because I don't think the press corps is fully aware of what Mr. Shumiatcher's real

qualifications are.

Mr. Speaker, I'd like to refer to a case in the Saskatchewan Court of Appeal. I'd like to refer to a document which I do not intend to read to this House, Mr. Speaker. I'll only quote very briefly from it. This was the case under which (and I'm only going to read from the front part of it) Mr. Shumiatcher won his appeal against a conviction. I only want to read what the charge was and what the conviction was, just to let members know precisely what kinds of qualifications this gentleman has in presenting all of these arguments he has so wonderfully presented to the people of Saskatchewan in all of his very great many articles that primarily appear in the Leader-Post. But in fact . . .

**MR. SPEAKER:** — Order. I am having some trouble relating what the member is saying to the debate that is supposed to be before us at this time. I question whether the Assembly is at this time concerned about the qualifications of somebody outside of the Assembly who is venturing his opinion on this debate. If somebody venturing his opinion on this debate is quoted, he in fact has as much power in this Assembly as the members of this Assembly, and no one is in that position except those who are elected to this Assembly. I have let the member go on in an attempt to find some relevance in the comment on the qualifications of the person who has commented on this debate. Now, this doesn't necessarily exclude anyone who may have made some comments on this subject, not necessarily for this debate but at some time prior to this debate. Then the member is perfectly at liberty to cite those opinions in this Assembly in support of his argument.

I want to refer for a moment to Beauchesne, Fifth Edition, paragraph 332, so that all members will be clear on where we stand on citing the arguments of people who are outside this Assembly on debates that are proceeding in this Assembly. This is subsection 1.

On March 17, 1933, a Member quoting a newspaper in debate was ruled out of order by the Deputy Speaker who said: 'The rule is quite clear, that the quoting of a newspaper, an author or a book which reflects upon debate before the House, either directly or indirectly is entirely out of order, because Members are here to give their own opinions and not to quote the opinions of others . . . Members may quote an article or a book stating facts, but a commentary on any proceeding or any discussion in the House with the object of swinging an opinion to one side or the other, is out of order.'

And that's the end of the citation. I think the member will see clearly what I am getting at.

**MR. COLLVER:** — Yes, Mr. Speaker, I can certainly see what you are getting at. And I think that was quite correct, Mr. Speaker — the Beauchesne's comment on the reflecting on the debate in the House — and I think that that's fair enough. But Mr. Shumiatcher was not reflecting on the debate in the House. He was holding himself out as a legal expert. I quote from the Regina Leader-Post, and they refer to him as 'Dr. Shumiatcher' — 'Dr.', if you can imagine such a thing; I don't know of any lawyer in the world who uses doctor in front of his name except this one. However, Dr. Shumiatcher is a Regina lawyer and free-lance writer. He is presenting his view as an expert opinion to the people of Saskatchewan. Now, he's not commenting on the debate. He was commenting on the principle of Bill No. 105. And he was pointing out some, I think interesting, if not . . .

**MR. SPEAKER:** — The member has made my case for me. He said that Dr. Shumiatcher

was commenting on the principle of Bill No. 105. Now, we in this Chamber are not necessarily interested in Dr. Shumiatcher's opinion. If Dr. Shumiatcher had written an article to the Leader-Post which appeared in the Leader-Post and was written prior to this debate starting, the member would be quite in order to stand up and quote if it were relevant to the debate. But he has written an article which apparently appeared in the Leader-Post after this debate began; therefore that person in effect has a seat in this House, if I may state it that way, and is able to voice his opinion in this House on this debate. And from my understanding of the situation the only members, the only people, who are allowed to voice their opinion in this debate are people who are duly elected to this Chamber. The member has said that Dr. Shumiatcher was voicing his opinion on the principle of Bill No. 105. I'm afraid I can't accept his opinion in this Chamber. I'm not interested in it.

**MR. COLLVER:** — Mr. Speaker, I accept your ruling for what it's worth. I hope Mr. Speaker will recall all the adjourned debates on Bill No. 13 that were before this House. The bill was introduced in December and members were bringing every single day into question period articles and newspaper articles quoting from outsiders on Bill No. 13. Debate commenced in December. Second reading debate concluded some ten days or two weeks ago and yet every single day, there were . . .

**MR. SPEAKER:** — Order! It's unfortunate that the member for Nipawin didn't rise on a point of order at that time because I would have been prepared to listen. I'm not prepared to listen to his point of order now because really, in effect, he is debating my ruling by bringing in some other evidence which he feels is valid. Had it been valid when it was raised in the House, it would be valid now. But it wasn't raised in the House. I can't recall any member raising a point of order on that question.

**MR. COLLVER:** — No, I can't recall any member raising a point of order on that question either, Mr. Speaker. Certainly, as I say, I'm not prepared to debate your ruling any further. I had quite a bit of information on this individual which I would have been prepared to present to the members for their information and edification. I'm sure anyone who wants to see this information may do so outside the Chamber. I'd be happy to bring it up there. I hope that the Regina press corps is as fair in presenting the crap (unparliamentary word), the stuff, that I have on Dr. Shumiatcher as they were about presenting Dr. Shumiatcher's stuff on me. That I think is only fair and reasonable and rational.

Now Mr. Speaker, once again we find ourselves in the position of having to debate Bill No. 105. Once again I have seen the House Leader, whoever that may be, rise in his place. You know, ignorance is bliss but I tell you in the terms of the members opposite, ignorance is a vocation. Everyday they bring forward this Bill No. 105. Now the document and the other business of the day are so smudged that you can hardly read the business of the day because they keep taking a copy from a copy from a copy. We are now into the eighth day in which they've copied the business of the people. I suggest that we get on with the business of the people. We have lots of time today to get on with the business of the people and I beg leave to adjourn debate.

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

**Yeas — 3**

Thatcher

Collver

Ham

## Nays – 34

Pepper	Allen	Kramer
Baker	Skoberg	McArthur
Shillington	Mostoway	Banda
Kaeding	MacAuley	Feschuk
Byers	Vickar	Cowley
Tchorzewski	Cody	Koskie
Matsalla	Lusney	Prebble
Nelson	Poniatowski	Lingenfelter
Solomon	Berntson	Larter
Taylor	Swan	Pickering
Muirhead	Katzman	Duncan
McLeod		

**MR. COLLVER:** — Yes, the member for Saskatoon Centre says, getting closer – that is what it is doing. Every day, in every way, you get a little better. That is the only way to do it.

Now, we will recall that natural justice . . .

**AN HON. MEMBER:** — You may run out of years.

**MR. COLLVER:** — Well, I don't know, Mr. Speaker, run out of time, run out of years – I am not so sure that is true either. Just by compounding arithmetic tables you would think you wouldn't run out of years.

You will recall, Mr. Speaker, in my attempts to bring to the members' attention that Bill No. 105 was against the principles of natural justice, that the principle of bias was one of the most important principles leading to the deficiency of this amendment as it relates to natural justice. I don't want to go back, because then you would say I was being repetitive. I don't want to go back over that history. I will have to just interrupt, since this debate has been stretched out over the weekend. Members may forget just exactly where in this discussion I was. But I am sure, Mr. Speaker, they can pick up Hansard. I am sure they can just see it continue right along.

It is sometimes difficult to determine whether any real likelihood of a bias existed. Nevertheless, there are cases where the court has quashed a decision of a tribunal upon the grounds that the aggrieved party had reasonable suspicions, without the Court coming to any conclusions on the matter.

Now, you see, Mr. Speaker, that really says there are cases in the past in which the courts have determined that the likelihood of bias would create a situation (and you will recall even the likelihood of bias would create a situation) in which the matter would be struck down as being opposed to the principles of natural justice. Unfortunately, in Bill

No. 105, although I have already proven it was biased, that it contained bias, and is therefore totally against the principles of natural justice, you have to color the matter, not in black and white terms, but in gray terms and in gray areas.

Thus in *R. v. Huggins*, (1895) 1 Q.B. 563, it was held (upon the hearing of a summons under section 598(1) of The Merchant Shipping Act (1894)) that a qualified pilot belonging to the pilotage district within which an offence had been committed, had by reason of his membership of the class in whose interest the proceedings were taken, such an interest as would disqualify him from acting as a justice. This was so even though by reason of the peculiar nature of his employment as a pilot he was not brought into competition with unqualified pilots and had consequently no personal interest in the conviction.

In *R. v. Sussex Justices, Ex parte McCarthy* (supra) the Court quashed a conviction where a justice's clerk who was interested professionally in civil proceedings arising out of the subject matter of the complaint was present while the justices retired to consider their verdict.

You see, Mr. Speaker, even there the decision was quashed. That is carrying it right as far to the extremities of the law as you can imagine. The judges weren't even present on the matter. Yet they were able to proceed and attempt to get the clerk himself. The justice's clerk proceeded to provide the decision and because it was biased, it wasn't possible.

In *Cottle v. Cottle* (1939) 2 All E.R. 535, where one of the parties alleged that her acquaintances with the justice were such that he would be inclined in her favor, it was held that it was not necessary to show that the justice was in fact biased.

Now that's where they are bringing the issue back a bit. The matter is that they are attempting to indicate (or there's an attempt to build up) the British common law and the Canadian tradition. Mr. Speaker, I will be getting on very shortly to the Canadian example. As you are well aware, the British example is the one which has been followed in Canada for some hundreds of years. But, Mr. Speaker will be aware that there are other examples. As a matter of fact there are some Saskatchewan examples of what constitutes bias and therefore opposition to the principles of natural justice.

I would like to leave that section on Britain at this point because I think there has been enough light cast upon the subject matter with reference to the British example. However, there are some cases which need to be brought to the attention of members to get more specific about what kinds of bias may disqualify when it comes to dealing with certain matters. Keep in mind the principle that a judge may not judge himself as we are doing in this case. In the case of Bill No. 105, the Legislative Assembly is judging its own actions and going totally against the principles of natural justice.

These are the examples of bias which may disqualify and I am not going to cite all of them because not all of them are applicable. But I will cite them all to give the members a background so then we can pick up the ones we think are most applicable to this case. They are: (a) family relationship, (b) membership of organizations of various types, (c) personal hostility or personal friendship, (d) personal attitude toward the issue and (e) ministerial attitude.

Now, Mr. Speaker can see that of those five reasons which are the reasons to disqualify,



four of them apply in this case. The first one, family relationship, does not apply. I won't delve into the matter. Membership of organizations of various types – all members of this Assembly are members of a political party and those political parties have various and sundry views. When the members, however, are elected to this Legislative Assembly, they are supposed to wear two hats.

They are supposed to wear the hat of their political party in so far as they are a caucus, a government vis-a-vis opposition vis-a-vis third party. But they are also to maintain the hat of the member looking after the interest of all of his constituents. I submit, Mr. Speaker, that of prime concern to all members is the job which they have of looking after the interests of all their constituents no matter what political party they may belong to. That, I think, is an overriding principle under which the members of this Assembly are elected.

I mentioned before examples of members who from time to time have seen fit to change hats in midstream, as it were, to change parties in midstream. But their prime function is to look after the interests of all of their constituents.

Now Mr. Speaker can see, therefore, that the organizations you belong to may disqualify you, as it comes to natural justice, for bias, because the political party, for example the NDP, does not have the same views as the Progressive Conservatives or the Unionist Party of Saskatchewan. Basically since the views are not the same, and since they are members of different organizations (you will see, Mr. Speaker, that the cases will bear this out), they should be disqualified from voting on, or taking part in the debate on an act which remunerates them and in which two members of the Assembly who form a minority in the Assembly, are being retroactively attacked. So, first is membership in organizations of various types.

Second is personal hostility or personal friendship; it is against the principles of natural justice to set yourself up as a judge if you have either personal hostility or personal friendship. In the case of this Chamber, whether a man or a woman sits on that side or on this side of the House, there are personal animosities that develop and also personal friendships. I would be inclined to think that perhaps, in this place, the animosities outweigh the friendships. Even within the parties there are personal animosities and the reason for that is obvious. Members are chosen by local constituency organizations, not by any central organization, so there is no generally accepted kind of member, as it were. The members are chosen at the local constituency organization level and come from many and varied walks of life. I think the old adage that politics makes strange bedfellows is more true in this Chamber than perhaps in any other. And of course the strangest of bedfellows . . . Well, that would be out of order; I don't think I'll say anything further on that. I think that adage specifically applies here.

Now, individual members, therefore, being thrown together in this situation, having to spend many hours per day, for brief bursts of time (and in the case of this particular legislative session, not so brief) find themselves thrown together in this Chamber and outside the Chamber as well. Although they may have some goals or aims in common with the people next to them, I don't think that necessarily means that they are going to be good friends.

I think that there are some friendships that develop, but generally speaking, because of the varying backgrounds and the various walks of life of individual members, there is mostly animosity. Now, Mr. Speaker, I won't bore the Assembly with various examples, although I well could (both bore the Assembly and provide the examples), but it would

suffice to say that in the case of Bill No. 105, and the attack on the member for Swift Current and the member for Nipawin that the personal hostility, I think, is the most apparent. I can recall for example, Mr. Speaker, the 1978 election, when (I'm sorry he's not here) the member for Regina North-East announced that I was the Richard Nixon of western Canada. That would certainly indicate personal hostility. I can remember the member for Saskatoon Centre in this very House shouting across things about the Bessborough, and Swiss bank accounts and all kinds of things. I can even recall Mr. Speaker, as late as the day before yesterday, a member of this very Chamber raising the issue of balconies and things like that in this Chamber. It was the member for The Battlefords. I can remember that.

Mr. Speaker will be aware that there are definite examples, certainly as it relates to me. There is definite personal hostility that exists between members opposite and me. These are documented; they are in Hansard over the last five years. I won't bore them with it. There was a period of time, though, that I must draw to the attention of members. Back in 1976-77, there was a period of time in which the legislature sat. My research staff at the time went through and examined the speeches of every NDP member of this legislature at the time, and there was a personal reference to me from every single member who spoke on every single issue, for a period of 23 days in 1976-77. In every single speech given by NDP members opposite on every issue there was a personal reference to me for a period of 26 days. Well, you see, Mr. Speaker, I would think that might indicate personal hostility to any reasonable man observing the scene and reading through the Hansard of the time. I invite all hon. members to return to that period of time and examine the record, the remarks that were made, the personal attacks. Personal abuse actually would be a more reasonable phrase for it.

As I say Mr. Speaker, it happened as late as just two days ago so it's not past history. Two days ago a member rose in his place having been granted by me permission to interrupt my speech and introduce people. As I say I'm sorry he's not here because certainly he might . . . I think that would indicate personal hostility. I don't see anything else that you can say for it. Why would a member abuse his privileges in this Chamber in such a way if there weren't personal hostility? Why would a member suffer the rancor of other members of the Chamber to act in such a way, if there weren't personal hostility? I couldn't imagine why anyone would show such bad manners if there weren't personal hostility. I can't think of a reason; it must be personal hostility. Now that, Mr. Speaker, as you know is a bias which may disqualify, and therefore, because it may disqualify, is against the principles of natural justice.

Now Mr. Speaker, I would say the fourth example of bias which might disqualify could be difficult to relate to Bill No. 105, but I think that I can do it. It is personal attitude toward the issue. Under that category (and I intend to go into this in some depth), I would like to cite for the hon. members some of the comments made by the Attorney General of the province, some of the comments made by the Premier of the province, outside this legislature. Those are just two individuals whose views were published. For example (and I won't necessarily bore the members by reciting every occasion this occurred) the bill was brought forward by the Premier of the province of Saskatchewan, and here, Mr. Speaker, is an article which appeared in a Vancouver paper. It is written by Fred Cleverley, and I don't suggest that is necessarily how he wrote the article. The title of the article is *Is Unionest Taken Seriously?* He opens up by saying:

The speed at which Premier Allan Blakeney introduced retroactive legislation designed to withdraw tax money from the newly formed Unionest Party is an indication of the embarrassment caused by the two members of

the Saskatchewan legislature who have opted not only for western separation, but for immediate union with the United States.

Well, I think Mr. Cleverley has misinterpreted a little bit. We didn't say, immediate union. We said we should seek union. Nevertheless, that's how he opens up.

Now, Mr. Speaker, I'm not going to read this entire article, but with reference to personal attitude toward the issue this is the Premier of the province, and he would, I think, be held to be speaking on behalf of all ND.CP members of this legislature; I would think so. I don't think the NDP would deny him. If they would we would certainly like to see an example of it. We have never yet seen the NDP deny anything the Premier has said outside this legislative Chamber; we've never seen them deny anything he has said outside the Chamber, so presumably the Premier speaks for all NDP members. This is what he says, Mr. Speaker. Now listen to this:

At the western Canada premiers' conference in Lethbridge, Premier Blakeney said it was never the intention of the Saskatchewan legislation to provide massive public support to people who want to break up Canada. He said the legislation (now get this, Mr. Speaker) was designed to accommodate the Liberal Party in the province, which might run 61 candidates, and elect two.

Mr. Speaker, the Premier of the province of Saskatchewan, at the western Canada Premiers' conference in Lethbridge, says it was never the intention of the Saskatchewan legislation to provide massive support to people who want to break up Canada. He said the legislation was designed to accommodate the Liberal Party in the province which might run 61 candidates, and elect two. Mr. Cleverley goes on to say:

When the Premier returned to Regina he lost no time in introducing legislation that made the public support applicable to only those parties which were in existence during the last Saskatchewan election in 1979. This legislation will effectively freeze the new Unionests out of the game as far as getting tax support . . .

Now, listen to that, Mr. Speaker. Here is the Premier, speaking on behalf of all of the NDP, saying that one political party in opposition (not his own) which got 13 per cent of the vote in Saskatchewan (I personally got 49.5 per cent in my constituency). . . . (inaudible interjection) . . .

Mr. Speaker, the member who introduced this bill had ample opportunity in this debate to present all of these facts to the people and to this Chamber. Did he avail himself? I'm about to get into that shortly. He is the only member of the NDP who has spoken in this debate. He has a great deal to say. He has a great deal to say from his chair, Mr. Speaker. He says, what about now? And I say to the minister, if this were a bill to force the member for Swift Current and the member for Nipawin to seek a by-election, to vacate the Chamber, then I could understand why he said that. If that were the case and this bill said we should be required, by law, as members (because we changed parties or changed our views between elections) to quit the Chamber and seek office by election, then his comment is perfectly acceptable.

But it's not that kind of bill. If he were to bring up that kind of bill, Mr. Speaker, one might (you will recall I have mentioned this before) have to remind him of the NDP and the

potash issue. One might have to remind him about Walter Erb. One might have to remind him about the member for Thunder Creek and the member for Qu'Appelle. One might have to remind him of a great many of these issues. One might have to remind him of Winston Churchill as well.

One might even have to remind him of the CCF members of the legislature who were elected and then changed views entirely halfway between and became the NDP. One might have to remind him of these instances if he should bring in such a bill. But that's not this bill. That's not this bill at all. I see he's leaving and it's probably just as well.

Now, here's the Premier of the province of Saskatchewan indicating to the people through the media that the reason the NDP brought this bill in was so that it could support the Liberal Party. That's what he said in this article. The reporter, Fred Cleverley, is one of the national reporters in Ottawa, and he happened to be at the western premiers' conference. So I don't think he would misreport what the Premier of the province had to say. The Premier said he brought it in to help the Liberals. That's what he said. That was the intention of the bill. That was why it was there before.

Now, can you imagine the Government of Saskatchewan, in May of 1979 or in 1978 . . . You will recall that, Mr. Speaker. I brought into this debate the times that this bill has been changed – '76, '78, '79 and now '80. I read everything there was on the record about the introduction of The Legislative Assembly Act. On no occasion did any speaker from the NDP who was introducing it, one of whom was Allan Blakeney, one of whom was . . . I'm sorry. One was the Premier; one was the Attorney General; one was the member for Biggar and now it's the member for Biggar again.

It wasn't mentioned in the Hughes committee report. At no time did they say they were going to write third party legislation so that the Liberals, if they ran 61 and elected 2, could be protected by third party legislation. Does that mean the Premier . . . I suppose not. Generally speaking I think he will find it's a pity he is at the meeting which he's attending at the moment. I think he'll find it is probably of less value to him than sitting in this Chamber. At no time during the debate did the Premier of the province of Saskatchewan ever suggest that was the purpose of the legislation.

Does that mean he was misleading the House back then? You will recall that I read every single word of that into the record on this debate. The Premier did not give one inkling to anyone, not a soul, that the purpose for the changes in The Legislative Assembly and Executive Council Act were, and I quote Mr. Cleverley again:

. . . designed to accommodate the Liberal Party in the province which might run 61 candidates and elect 2.

Can you understand, Mr. Speaker, and can the members understand the implications of that statement? In 1978 the Premier himself introduced the changes which brought about the changes in the legislation for the third party. He didn't even mention it. Mr. Speaker, that means either one of two things since that is the Premier's present stand.

On the one hand it could mean that the NDPers, in their cabinet and in their caucus, when they discussed the changes to The Legislative Assembly Act back in 1976-78 (as a result of the Hughes committee report), said we had better bring in this legislation to accommodate the Liberals, who in 1976 and in 1978 were actually sitting in this Chamber. They had 12 and the Conservatives had 12 in 1978. (In 1976 they had 15 and the Conservatives had 7.) They actually discussed in their caucus and in their

cabinet that they should bring up legislation at that time to accommodate the Liberals who might run 61 candidates and only elect 2 members. That's what they said because that's when these changes were made, and the Premier, when he presented the bill, and the Attorney General when he presented the bill (because those are the two who presented those two bills) actually misled the Chamber.

Either the NDP actually discussed it behind closed doors and then the Premier came forward and presented it but misled the Chamber because he didn't mention anything about the Liberals or accommodating them or anything, or what he says now is totally false. You can come to no other conclusion. Either he is telling a complete falsehood now, or he was telling a complete falsehood then. It can't be both.

I invite the member, who is sighing so wonderfully from his chair, to step outside and explain to anyone how the Premier could have made this comment at the western premiers' conference less than one month ago, exactly like this . . . (inaudible interjection) . . . Yes, that's what it's about – Bill No. 105. No, no, he was commenting on the existing law then, not Bill No. 105. He was commenting on what The Legislative Assembly and Executive Council Act stated at that point. Then he came back and introduced, or had the member for Biggar introduce, Bill No. 105 in order to correct the problem. He says originally the act was changed to accommodate the Liberals who might run 61 candidates and elect only 2. Now that was when the Liberals were in this Chamber you see.

What other thought could you have? There was never a mention of it in the record. If that had been true, Mr. Speaker, I suggest to you that there might be a great many people in western Canada, and in Saskatchewan, inclined to call the speaker that word which is not able to be used in this Assembly. There might be a great many people inclined to say that – either he did that (and I can't use that word) back in 1976 or 1978 or he did at the western premiers' conference because it can't be both ways. There isn't a possibility. Therefore the Premier misled this Assembly (or seems to have) back in 1976-78 or he's not telling the truth today.

Mr. Speaker, let me ask you this. Why would he say to Mr. Cleverley that the legislation was designed to accommodate the Liberal Party in the province which might run 62 candidates or 61 candidates and elect them? Why would he say that at this stage of the game? Why would he make that statement public? Well, Mr. Speaker, I suggest to you that that indicates nothing less than a personal attitude toward the issue that completely betrays what the member for Biggar said in his opening remarks on this bill. You see he said (and I'm going to get to that so that the members will know in detail what he said) generally speaking, this is a housekeeping bill. That's all. This one is just to clean up the legislation.

You talk about free speech and the rights of minorities. Can you imagine, Mr. Speaker, if what the Premier says is true what that would mean to Saskatchewan? I wonder if the members to my right, those eminently qualified individuals who are sitting as Conservatives now, have considered what the Premier just said means in the province of Saskatchewan? At the time that they were negotiating and dealing (and I say this especially for the member for Rosthern) in May of 1979 on The Legislative Assembly and Executive Council Act behind the closed doors, the NDP was in fact, according to the Premier, talking about accommodating the Liberal Party which might run 61 candidates and elect 2. Could you have believed that, when you voted in favor of The Legislative Assembly and Executive Council Act back in 1979? Can you imagine, Mr. Speaker, anyone in this House or on this side of the House (since we were all

Conservatives here at that time) standing up in favor of the changes in The Legislative Assembly and Executive Council Act which were specifically designed to accommodate a party that had only achieved 13 per cent of popular support in 1978 at the time of the previous election? To accommodate that group, (the party of Pierre Elliott Trudeau and the federal government in Ottawa) we are going to create a bit of third party legislation so that if they run 61 candidates and only elect 2, they will get the necessary funding.

Mr. Speaker, wouldn't you say that any reasonable person, any reasonable man, examining that would say that there was a bias here? Wouldn't you say that would be the conclusion of any reasonable man examining the result – the legislation that was forthcoming after the Premier said this? First of all, he said before hand it was designed for the Liberals. After the legislation came out, it is still designed for the Liberals. I think I've pointed out in this very House that after it passes, if we select this legislation and vote in favor of it and proclaim it, that if the member for Swift Current and the member for Nipawin then declare as Liberals, then it's O.K. Then we would get third party funding and third party recognition in this Chamber. Mr. Speaker, wouldn't you agree with what I said earlier in this debate about the law being specifically an attack against the views of two individual members, and therefore totally biased? Wouldn't you say that the words of the Premier himself have spelled that out, that this is in fact an attack on minority opinion?

Wouldn't you say it was specifically designed because of the recognition by the Premier of the Liberal Party and because the law itself would recognize the Liberal Party even after it is passed, in effect saying that the NDP Government of Saskatchewan would rather have the Liberals in here opposing them than they would have the Unionests opposing them. That's what they're saying, bold faced, right up front; that's what they're saying – we don't mind the Liberal opposition and the reason, Mr. Speaker, that they don't mind the Liberal opposition is because the Liberals are the Government of Canada and they have to deal with the Liberals from time to time.

Now, the Liberals have very little support, if any, in western Canada. I've said it before and I'll say it again: the Unionest Party has more support in Nipawin and Swift Current and in many other places than has the Liberal Party in terms of Saskatchewan and western Canada. That's a fact, a demonstrable fact . . . (inaudible interjection) . . . Well, Mr. Speaker, they say it is not a demonstrable fact. Mr. Speaker, there was a meeting of the Liberal Party of Canada at the Sheraton Cavalier this weekend. I happened to be staying at the Sheraton Cavalier and I happened to have been there when that meeting commenced and Mr. Speaker, we have had more supporters of the Unionest Party in our office at Suite 146 in the Legislative Building of Saskatchewan (and it is a very, very tiny office) than the Liberal Party of Canada had at this meeting held at the Sheraton Cavalier this weekend. I was there and I saw what they had – they had nothing.

The NDP says they're O.K.; that party is O.K. We recognize them; we think they're a good party; we think they'll make a good opposition so we are ready to recognize them in opposition, but nobody else. The Premier himself said that was how the bill was drafted before. Now, Mr. Speaker, I can say that when I was the leader of the opposition in this Chamber, not for one moment would I have stood for (nor would any member of the caucus at the time) a bill which came into this legislature specifically designed to support the Liberal Party or any other specific party. At no time would we have gone along with that; it wasn't mentioned and it wasn't designed that way. It didn't say the Liberal Party; it didn't say that at all, Mr. Speaker.

The bill was very clear. If two or more members who subscribe to a political party which is recognized under The Elections Act as a political party are elected to this Assembly, they shall be a party in this legislature. That's what the bill says. That's what the old law says, and that's what the Premier brought forward in his remarks, that's what the Attorney General brought forward in his remarks, and that's what the member of Biggar brought forward in his remarks, when the bill came in. Not that it was specifically designed for one party – this legislature couldn't stand that.

No legislative Chamber could have a bill brought in designed as the Premier says, to accommodate the Liberal Party in the province. No legislature could withstand that kind of abuse, but the NDP with its majority, its overriding majority thinks it can ram that idea down people's throats. Well, Mr. Speaker, the answer is it can't.

Let me say this to you, Mr. Speaker. When the member for Swift Current and I first put forward the idea of the Unionest Party the immediate reaction was twofold. Yes, the immediate reaction on one side was revulsion and on the other side was support. Now, that is a fact. I would say revulsion was far more common than support at the time – at the time!

**AN HON. MEMBER:** — Barry Goldwater's support.

**MR. COLLVER:** — Well, Barry Goldwater received 28 per cent of the popular opinion in the United States of America at the time he ran for president and 28 per cent at that particular juncture amounted, Mr. Speaker, to some 24 million voters who voted for Barry Goldwater when he ran, which is more than the number of voters in Canada. Mr. Speaker, that's more than 100 per cent of the number of voters in Canada, so I suggest the member for Saskatoon Centre should stick to his facts and understand what's going on.

The point, Mr. Speaker, is this. It doesn't matter, for the benefit of the member for Moose Jaw North . . . (inaudible interjection) . . . No, of course it matters about Nipawin. Those are my constituents. Now, Mr. Speaker, I must tell you that between elections, as the member for Nipawin, I do not ask a constituent who phones me or an organization whether they voted for me in the last election. I don't ask them whether they are Conservative, NDP, Liberal, Socred, Unionest or anything else. The most recent example of that is Mr. Brown, the teacher from Ridgedale, who brought his students to this Assembly along with two or three other people from that area. I can say to you without fear that Mr. Brown did not object to the steps I had taken. Nor did he object to the stand I am taking.

I must tell you that a great many in the Nipawin area are in favor of the steps I took. There are people in the Nipawin area who aren't in favor of the steps I took. But, my goodness, Mr. Speaker, I didn't get 55 per cent or 60 per cent or 80 per cent of the vote. I got 49 per cent of the vote in Nipawin. Now that means 51 per cent of the people, even when I was elected, were opposed to me. I might say, however, Mr. Speaker, that I was among the top 10 or 11 members of this Assembly in percentage of the popular vote. I believe the member for Moose Jaw North, for example, received considerably less than 49 per cent of the vote in his riding for this particular Assembly. Well, Mr. Speaker, I'd be happy to go get the percentages. Well, he may be among the top 10 or 11 then; but I can only say, Mr. Speaker, that the vast majority of members of this Assembly were elected with a lot less than 49 per cent of the vote. Now, Mr. Speaker, here is the point.

I don't, as a member of this Chamber, ask people whether they are New Democrats, Conservatives or Liberals. I treat them all the same. That, I understand, is the role of a legislator in this Assembly. But if the members are interested, I will table – if that would help them to change their minds – in this Assembly a petition which was presented to me by my constituents in Nipawin; it is a very thick petition. I would be happy to table that petition, which asked that I remain an MLA under whatever circumstances and for whatever party – it didn't mention party; it didn't mention the date.

**AN HON. MEMBER:** — What date?

**MR. COLLVER:** — Oh, the date – last fall. Oh, but, Mr. Speaker, the petition didn't say which party. You see, Mr. Speaker, at that time – and I'm just speaking for myself – there were lots of press reports about how I was going to resign and about how I was going to quit the legislature and so on about my business – a great many press reports. And the people in my constituency at that point presented a petition to ask that I stay on as a member of the legislature. I don't think that makes any difference.

For example, I could drum up a petition of people living in Moose Jaw North which would ask for the resignation of the member for Moose Jaw North. No question about it. If I so desired, I could go out and find about 1,800 people to sign a petition in Regina Elphinstone to ask for the resignation of Allan Blakeney. Oh yes, absolutely. You know, surprisingly enough . . . (inaudible interjection) . . . That's not true.

There were 1,800 people who voted against Allan Blakeney in the last election. They'd be happy to sign a petition asking him to resign. The point is, what value is that? I might even get more than that because of the way the NDP is behaving in terms of their autocratic behavior and the way they are reacting toward people. There has been a great deal of slippage in the last little while and they are going to find out that perhaps even more would sign such a petition.

But that's not the point. The point is that members don't have to put up with this. I could go out and draw up a petition. As a matter of fact, if I had a petition with every single constituent of Saskatoon Centre asking for the resignation of the member for Saskatoon Centre because of some of his peccadilloes . . . If I did that, I'm not saying how many I'd get. But if I went out and had every single constituent sign the petition asking for his resignation, you know, Mr. Speaker, under our law (and that's the way it should be) the member would not have to resign. Nor should he resign.

I might go out with my little petition and I might have written on the petition – be it resolved that the member for Saskatoon Centre, the Hon. Paul Mostoway, resign his seat and seek re-election in a by-election. I might do that. But even if I got 9,000 or 10,000 or 12,000 people to sign it, what might happen, as has happened before from time to time, is that although that's what the words say on this . . . What you do is put a nice little lie on the other side. You know, I remember the by-election in Saskatoon-Sutherland, when members went around saying, this is our stand in the by-election. But through the side door they were saying, I want you to look at the terrible things that have happened to the leader of the Conservative Party.

I wouldn't want to accuse anybody of doing that but there were a great many people who thought there were some NDP people wandering around pointing this thing at them, while they were telling them about the candidate.



I don't think that is meaningful . . . (inaudible interjection) . . . Well, Mr. Speaker, I'm glad the member for Saskatoon Centre, from his chair as usual, with his mouth full as usual, is yelling across this Assembly saying that the Tory candidate repented and voted for me. Is that true? I'm going to put this on the record now and I do want the member for Saskatoon Centre to rise and correct this if it's wrong.

The member for Saskatoon Centre said that the Tory candidate in the last provincial election, 1978, repented at the last minute and voted for him. You see, Mr. Speaker, the member doesn't rise on a point of order to correct . . . (inaudible interjection) . . . Oh no, he may rise.

**MR. DEPUTY SPEAKER:** — Order, order please. I think we could do with a little less assistance to my right here. I would ask the hon. member to confine his remarks as closely as possible to Bill 105, and I hope that it expedites things here in the House.

**MR. COLLVER:** — Thank you so much, Mr. Speaker. The reason, however, that I asked the member to rise on a point of order on that item was to point out one aspect of Bill 105 that I've been talking about now for some time. The member said from his chair, he repented at the last minute and voted for me. But you see, Mr. Speaker, he didn't say, he repented at the last moment and voted NDP. Oh no. He voted for me, he said, Paul Mostoway; me he said, Dick Collver; me, he said, Larry Birkbeck. Me, he said. That's what he said. And that's a fact, Mr. Speaker. The people don't vote for a party. They vote for an individual. So you see, we're right back to that argument again.

Now I would like to return, Mr. Speaker, I really would because some of the members have tried to entice me into getting off the topic. But what I was talking about was bias and the item personal attitudes toward the issue.

I think that Mr. Blakeney's comments in this paper, about the legislation being designed to accommodate the Liberal Party, not the Conservative Party and not the Unionest Party, but the Liberal Party, shows a personal attitude toward the issue that is biased. It is biased, and I don't think there's a single, solitary person who could look at that evidence and not agree that that's a bias. Now if a bias exists, then the bill is against the natural law. Bill 105, specifically designed to attack minorities, is against the natural law. We've already discussed what happens to legislation that is against the natural law. I don't need to remind members of that again.

Now (e) ministerial attitude. Although this doesn't directly apply to Bill 105, I think it does apply since it was a minister of the Crown who introduced the bill — a member of the treasury bench introduced the bill. Now it has to be because it's a money bill and that's why the minister introduced it. It's not a private member's bill. That means that ministerial attitude can be used to indicate that a bias exists and therefore may disqualify that person from being able to judge himself.

Now let's get into the fine area of the law to figure out how far the general topic of membership in organizations of various carries. I pointed out that members of the NDP, members of the Progressive Conservatives and members of the Unionest Party are members of organizations of various types. Should that disqualify them from sitting in judgment on themselves through this change in The Legislative Assembly and Executive Council Act?

The general principle is that justice must manifestly appear to be done, and this is illustrated in the following case. Now you remember what I said before, Mr. Speaker, on

natural justice. Justice must not only be done, but must appear to be. In *R. v. Gaisford* (1892) 1 Q.B. 381:

... a justice of the peace who had moved a resolution at a vestry meeting and who was a ratepayer of the parish, subsequently sat and adjudicated with another justice upon the case. It was held that the justice who had moved the resolution was disqualified, as the part previously taken by him suggested there was a suspicion of bias on his part, although there might not have been, and there was also the pecuniary interest which he had in the case as a ratepayer.

Now, think of that. Here we are sitting in this legislative Chamber, attempting to change our own salaries, attempting to adjust our own expense accounts. Here is a fellow back in 1892, in Britain, who is a justice of the peace, and he moved a resolution at a vestry meeting. He was precluded from moving the resolution by law, because he had already indicated that he was biased.

Similarly, in *R. v. Brakenridge* (1884) 48 J.P. 293, it was decided that it was improper for a clerk of the court to act as a solicitor for the party. Again, in *R. v. Sussex Justices, Ex parte McCarthy* (1924) 1 K.B. 256, a clerk was a member of a firm of solicitors which was acting for a party in civil proceedings, the result of a motor accident in connection with which the other party was convicted of a criminal offence by the justices. The conviction was quashed because it was held to be improper for the clerk, who was acting for his firm's solicitors, to be present when the justices retired to consider their decision.

A stronger case was *R. v. Essex Justices Ex parte, Perkins* (1927) 2 K.B. 475, where the clerk's own firm had given advice on matrimonial matters to a party who subsequently instituted matrimonial proceedings before the justices. The clerk retired with the justices while they considered their decision and it was held that objection could be taken to the presence of the solicitor as clerk to the justices which would create a reasonable impression that justice was not being done.

You can see, Mr. Speaker, how far the law goes in this. They aren't just saying that if you happen to be dealing with your own money, as we are here, you shouldn't be sitting in judgment on your own case. They are actually going further than that; they are saying you can't even be a member of a firm which is doing that. You can't even be a party to it. You must disqualify yourself. But members don't do that. Now they should have, in my judgment. They should have in 1976. I said so. They should have in 1978. I said so. They should have in 1979. I said so. And I say so again in 1980. This, Mr. Speaker, is not the first amendment to this act which has occurred in the last four years, as you know. On every single occasion I have suggested that the members should not be sitting in judgment on themselves. But, Mr. Speaker, on other occasions I wasn't forced into the unreasonable position of having to fight for my rights as an individual MLA because I was being retroactively declared a lawbreaker. That is, Mr. Speaker, probably the major bone of contention between the NDP and myself. I don't think it is reasonable to retroactively call someone a lawbreaker.

Mr. Speaker, I have broken the law. When I have, I am prepared to pay the penalty and I am prepared to admit it publicly. But, Mr. Speaker, I do not think that when I have not broken the law a majority should be able to use its power and majority to make me a

lawbreaker retroactively. That is unacceptable; that is what's wrong with this bill, basically and fundamentally.

As a matter of general principle, the undermentioned cases have established that the same person should not act as clerk to the tribunal in the first instance, as well as clerk to the appeal tribunal if he appears to take any part in the discussion with the appeal tribunal.

Mr. Speaker, we are the court of final appeal. That's what this is. This is final appeal in so far as Saskatchewan is concerned. Now that isn't true in terms of the country, but it is as far as Saskatchewan is concerned. We should act more carefully, more reasonably than any other citizen or group in the province. They are now doing so by attempting to pass Bill No. 105.

Thus in *R. v. Salford Assessment Committee, Ex parte Ogden* (1937) 2 K.B. 1, it was held by the Court of Appeal that the Assessment Committee should be prohibited from allowing the officer acting clerk to the Assessment Committee to remain in attendance on that Committee during the hearing of the appellant's objections and proposal and during the subsequent deliberations thereon. The grounds were that the Assessment Committee, in hearing the objections to the draft valuation list under the Rating and Valuation Act, was a body performing judicial or quasi-judicial functions and if the officer were present at the meeting of the Assessment Committee when this objection and proposal were being heard and advised that Committee on procedure, it would be impossible to hold that it was a case where justice appeared manifestly and undoubtedly to be done.

Now, Mr. Speaker, we all know, in this legislative Chamber, that it is possible to vote as you will. Not every member is motivated by the highest of morals on all issues. Not every member is motivated by the highest intelligence on all issues. It is only once in awhile that we are faced with an issue which is so obviously and manifestly unjust and unreasonable that, whether or not the public is in favor of it, we must not act in an unjust way, because the results of that will be anarchy, chaos, and a diminution of people's respect for the law.

I suppose the members can continue to believe that is not the case, that it would be better (some members in this Chamber think, I believe) to live in a lawless Canada than a lawful United States. Some members of the country believe we should live in a bilingual (compulsory) Canada rather than in the United States in which the language is uniform. Some members believe we should live in a Canada which requires and forces Ukrainian people and German people to feel like second-class citizens (and that's what will happen if compulsory bilingualism is brought in) as opposed, Mr. Speaker, to living in the United States of America. Some members will say that.

I say to the members that of all those issues the most urgent and pressing issue is that of lawlessness. If people do not have a respect for the law, in whatever society in which you live, whether you call it Canada, the United States, Britain, or any other country, then that country cannot and will not survive as a free society. I say to you, Mr. Speaker, with all the sincerity that I can muster, that there is no way, if you pass a law which is

patently opposed to justice, natural justice and the natural law, that you will not develop in your society an anti-law syndrome which will in turn create all kinds of hardship.

I'll just use a prime example of that. One might say today, and this is just one example on the international scene, that the individuals who kidnapped and held hostage the 53 American diplomats in Tehran were accomplishing their aims and goals by pointing out to the world that the United States and others in that situation with the Shah were not reasonable or fair to the people of Iran. But, Mr. Speaker, in doing that, they broke the law. They broke the natural law. They broke international law which has held true during world wars. Japanese diplomats, for example, were sent home 10 days after the sneak attack on Pearl Harbour in 1941. That is an example. This is one of the first times in international endeavors that this has ever happened.

Now, what is the result of breaking that natural law? The result of breaking that natural law is that the people in Iran no longer have a respect for any law of any kind and they are developing a society which is organized through anarchy. They can't control any region of their country. Their entire country is breaking up. The city is in riotous condition. Why? Because they broke the natural law and people lost respect for the law. I say to you, Mr. Speaker, the situation is not like that in Saskatchewan at the moment. But this is the kind of thing that could lead the people of Saskatchewan into that disrespect of the laws of the province.

In *R. v. Architects Registration Tribunal, Ex parte Jagger* (1945) 2 All E.R. 131, it was held that as regards the person who acted as clerk of the admission committee and of the registration council and who so acted when the applicant's original application was considered and determined by those bodies respectively, no reasonable person could have suspected him of not being impartial. This applied either by the reason of the positions he held or by his conduct. His mere presence, when he took no part in the deliberations of the tribunal, did not vitiate the decision.

Well, Mr. Speaker, that means that even if members of this Legislative Assembly or legislative Chamber, when Bill No. 105 is finally called (whenever that may be), decide they don't want their names associated with the passage of such repressive legislation and fail to stand in their places against the bill, they will be held by the natural law to be accountable anyway. It means you are accountable for the actions of this Assembly. We all are. As members, we are accountable for the actions of the Assembly. You may stay out of this Chamber and think you have avoided the responsibility, but there isn't any way you can avoid the responsibility when it comes to bias. If the Chamber proves to be biased, then we will all take the smear of bias with us in our careers and our reputations. These decisions should be contrasted with:

*R. v. Minister of Agriculture and Fisheries, Ex parte Graham* (1955) 2 Q.B. 140, where it was held by the Court of Appeal that although a sub-committee may be appointed by the Minister under the Agricultural Act 1948, at a hearing by a sub-committee so appointed, an official such as a land agent, may be present to act as clerk to the tribunal for the purpose of making notes of the proceedings and compiling a report which must be approved by the members of the sub-committee. Such official, however, must take no part in the deliberations of the tribunal.

Now, I am sure that is obvious. The Clerk of the Legislative Assembly here takes no part

in the proceedings. He certainly cannot be held accountable for the bias of this Chamber. But everyone else can be held accountable if this Chamber is biased, and therefore in opposition to the natural law. Every member of the government, every member of the opposition, every member of the Unionest Party and, Mr. Speaker, I might suggest even yourself, Sir. Even though you don't take part in the deliberations as an elected member of this Chamber you, too, must bear some of the responsibility if a bias is shown and the natural law is abridged. And that, I think, is what these decisions are attempting to show – that we all have to accept part of the responsibility if we act in this irresponsible fashion.

While in *Re Lawson* (1941) 57 T.L.R. 315, the question of the capacity of the secretary of the Pharmaceutical Society and its council to be present at the deliberations of the committee was one of substance and fact: that should justify his presence there, his position must be such that in substance and fact he could not reasonably be suspected of bias; that as, on the facts, no reasonable person could have suspected the secretary of not being an impartial person either by reason of his position or of his acts, the decision of the committee was not vitiated by his presence during his deliberations.

Later it was decided in *R. v. Welshpool Borough Justices, Ex parte Holly* (1953) 2 Q.B. 403, that the justices were entitled to require their clerk to accompany them to their room to advise them on the law; and his subsequent presence in the room while they were discussing the facts was not sufficient objection to invalidate their decision. Moreover, as the shorthand writer was taking note of the evidence to which the justices were entitled to refer there was nothing improper in sending for her. Should such circumstances arise in future, it would be better if justices came into open court and requested a shorthand writer to read the notes required.

Now, Mr. Speaker, the author, Mr. Hewitt, goes on to discuss the role of the clerks, and I don't really think that that applies to the situation of bias as it relates to this legislative Chamber. I only mention that to indicate the responsibilities of each of us when it comes to a presentation of ourselves when we are called to account before whatever bar of justice we consider important.

Most members, I suppose, believe that the only thing of any value is getting re-elected. I'm not certain that that is the only thing of any value, but I think that's one of the reasons Bill No. 105 has been brought forward. The prime motivating force that would bring this bill before this Assembly is that of getting re-elected.

But as I tried to explain in the past, and I will continue to emphasize, that of itself is not sufficient motivation, and members will find that it backfires. It backfires when you go against the natural law. It backfires as it has in Iran. It backfires as it did in the cases that I have cited before this Assembly. It backfires in terms of decisions of the Government of Saskatchewan which I have already mentioned in this Chamber. It backfires when you go against the natural law. I say this will backfire on those members who support it, and this will backfire very big.

Mr. Speaker, do you really think that two years from today or whenever the next provincial general election is going to be (let's say for the sake of argument it's going to be two years from today), the political implications of the Unionest Party are going to be remembered? I would suggest to you the answer is no. Or the answer is going to be that everybody in the province is going to vote for him anyway and it won't make any

difference. Either the Unionest Party is going to die very quickly in the province of Saskatchewan, and the people of Canada are going to get together and solve their problems, or the people of Canada are not going to get together and solve their problems, as I believe is going to happen. There will be a split-up and there will be other answers chosen. There will be other solutions opted for. That's going to be something that happens within the next two years. It's not going to be something that drags on another 10. Certainly it is apparent that's what Mr. Levesque's goal is. I only say to you, Mr. Speaker, that is going to happen very quickly.

But, let me say this – let's suppose, in the minds of every member here other than the member for Swift Current and myself, that the best thing happens and Canada stays together and there's a nice provincial election in two years' time, and the candidates at that time are the Conservatives and the Liberals and the New Democratic Party. That's a government and two opposition parties – one of which is in the House and one of which is not in the House. Do you really think that anyone will give a tinker's hoot what the government did to the Unionest Party two years before? The answer is no.

But do you think they will remember, Mr. Speaker, that the majority of this Chamber, in an autocratic and overly heavy-handed way, tried to ram through this legislature an attack on minorities such as they are doing with Bill No. 105? I say the answer is yes. I say that's the kind of thing the people will remember, and the kind of thing they will forget is whether or not we were a factor of any kind whatsoever. All they will remember is an attack on two members.

Mr. Speaker, in my unpolitical way, I haven't been totally unsuccessful politically in the past six or seven years. I say to the members opposite, not totally unsuccessful. I challenge any member of this Chamber to go out any time he wants to and take any organization that in the previous election got 2 per cent of the vote and build it up in five years to 39 per cent then say that he didn't have some political acumen. I say to you that, in so far as the future is concerned, people will either not remember the Unionests or we're going to be so big that you're going to have to counter us some other way anyway. We're either going to be so big, or forgotten. But they will remember the autocratic and heavy-handed attack on minorities which has existed in this legislature because that's the kind of thing people do remember.

Politically it's not very smart when you go against the natural law. That's the kind of reaction which will happen. Now, Mr. Speaker, I'd like to go on to the next section because, as I said earlier, there are one or two cases which it is necessary to bring to the attention of members under this section of bias which may disqualify – membership of organizations of various types. I think the members should realize how closely akin in their memberships within the political parties they are to these situations which are existent here and in which this principle of bias is being violated by Bill No. 105.

In Jackson and Barry Railway Co. (1893) it was said by Bowen, L.J. at page 247:

Employers find it necessary in their own interests, it seems, to impose such terms on the contractors whose tenders they accept, and the contractors are willing, in order that their tenders should be accepted, to be bound by such terms. It is no part of our duty to approach such curiously-coloured contracts with a desire to upset them or to emancipate the contractor from the burden of a stipulation, which however onerous, it was worth his while to agree to bear. To do so would be to attempt to dictate to the commercial

world the conditions under which it should carry on its business. To an adjudication in such a peculiar reference the engineer cannot be expected, nor was it intended, that he should come with a mind free from the human weakness of a preconceived opinion.

The perfectly open judgment, the absence of all previously formed or pronounced views which in an ordinary arbitrators are natural and to be looked for, neither party to the contract proposed to exact from the arbitrator of their choice. They knew well that he possibly or probably must be committed to a prior view of his own and that he might not be impartial in the ordinary sense of the word.

Now that's a coloration, Mr. Speaker, the other way. There's no question about it; everybody has some preconceived views. So I think what the law is trying to do is say that although you can have some preconceived views and still act as an impartial judge, you cannot have exhibited them, and I think this is the principle they are attempting to state. Because you belong to a specific organization, you cannot through that organization specifically exhibit a bias because if you do then the natural law says that you must not sit in that position.

Now, Mr. Speaker, can any reasonable man suggest that political parties have not taken public stands, that individuals who sit in this legislature as members of that party have not taken public views and public stands that would indicate a bias in opposition to the Unionest Party, the Premier of Saskatchewan suggesting he'd rather have the Liberals in opposition than anybody else? I think that obviously and totally exhibits a bias which members will know is a bar to natural justice.

Again, in *Ives and Barker v. Williams* (1894) 2 Ch. 478, Lindley L.J. observed (at p. 488)

...

He mentioned again about subcontractors and I've mentioned that issue and I don't want to go on.

*Eckersley v. Mersey Docks and Harbour Board* 1894 – I said earlier, Mr. Speaker, that that was a very famous case. This is the third or fourth time that we've heard this case as it related to natural justice and to the principles of bias and other principles of natural justice. It is a very, very famous case.

... it was held by the Court of Appeal that the rule which applies to a judge or other person holding judicial office – namely, that he ought not to hear cases in which he might be suspected of a bias in favor of the parties – does not apply to an arbitrator, named in a contract, to whom both the parties have agreed to refer disputes which may arise between them.

Now, Mr. Speaker, there's no arbitration clause in The Legislative Assembly and Executive Council Act, and the reason that there isn't is that it is presumed and expected, I think, all members of this legislative Chamber will not use their position either in minority or in majority to attack other members of this Assembly. And the reason why that is so obvious and apparent, Mr. Speaker, is because at some time in future a member of one party can find himself in opposition.

I wonder if anyone is bothering to follow the news on Ed Ziemba in the Ontario House. Now the circumstances are not the same. He was tossed out of the House by the

Speaker for refusing to withdraw some remarks he made about some members and his own party members have stated that they are in favor. I shouldn't say thrown out of the House. Interestingly enough they have a nice rule there, Mr. Speaker. He may attend the House but he may not speak or move a motion or ask a question or any of those sorts of things. He can attend on his constituents but he may not do that. I wonder how many members have been following the case to see what he is today. He may be something else tomorrow.

Here's this man who on principle brought something up in the Legislative Chamber. The Speaker ruled that he must withdraw. He refused to withdraw because he believed that what he brought up was correct. He was then handed this punishment. Now suddenly he found himself out of sorts not only with the opposition parties, but also with his own party because the Speaker of the Ontario legislature is an NDPer. So he suddenly found himself in the position where his own party was against him. So now he's crying in the papers that he can't understand why his own party would be against him.

His own party is doing an interesting little thing. Members are standing up for the Speaker there, Mr. Speaker, and outside the House they are saying, but we think what the member said is right. Can you imagine that? I don't know; they obviously have different rules down there about members speaking outside the House. I would have thought that if Mr. Cassidy or someone else from the Ontario legislature happened to be sitting in the Saskatchewan legislature and said, outside the House on TV, we're going to stand up for the Speaker but what our member here said is right, there is political patronage involved in these two seats. I would have thought that because the Speaker ruled against Ed Ziemba that he would also rule against Mr. Cassidy. But maybe even there it's hard to overcome the political bias which sometimes exists in all of us. One would hope, though, that we would make an attempt, Mr. Speaker, although we're not always successful, to eliminate political bias. If we are to follow the principles of natural law, we should certainly try to overcome the tendency to be politically biased.

In *Panamena Europa Navigacion (Compania Limitida) Frederick Leyland & Co. Ltd.* (1947) A.C. 428, it was held by the House of Lords that by entering into the contract the repairers agreed that the shipowners' surveyor should discharge the duties both of expert and of quasi-arbitrator and, therefore, could not claim that he must be in a position of an independent arbitrator . . .

Again, Mr. Speaker, that's just an attempt to try to give the law some distance between black and white to indicate the grey part of the law which exists with reference to people attempting to judge themselves.

Now I mentioned a second area, if you like, a bias which may disqualify, is personal hostility or personal friendship. Now, Mr. Speaker, it may be necessary at some further time to indicate that personal hostility exists in this House. I hesitate to do this because it would be calling attention to various things. I mentioned earlier the personal hostility toward me. I will read cases to indicate that it doesn't have to occur only against me. It can occur against any member, against anyone and shows that the situation is such that members should be disqualified for their actions.

In the well known case of *Maclean v. Workers' Union* (1929) 1 Ch. 602, it was said by Maugham J. at p. 625 that Blackburn J. in *R. v. Rand* (1886) L.R. 1 Q.B. 230, 232, referred to the objection of bias in the nature of 'a challenge



to the favour'. Maugham J. went on to say (at p. 625):

'Whatever may be the precise meaning of this phrase, I think that mere personal prejudice, even resulting from a previous dispute or altercation, is not comprehended within the term.

It is doubtful whether this dictum can be supported as a general principle.' In a voluntary organization there is often friction among members which leads to expulsion and the rules of such organisations generally permit the members to act as judges in their own cause.

Now, Mr. Speaker, this is not a voluntary organization although we all voluntarily come to it. We are compelled to act in this Chamber in a certain fashion and therefore we don't do it voluntarily.

Consequently, an expelled member will find it difficult to get his expulsion set aside by the court simply by showing that the members were not impartial towards him.

I'm not trying to suggest that a political house, like the legislature in the province of Saskatchewan, should in some possible or potential way be not impartial. Of course, we're not impartial. We are political opponents. I think that's what these cases are going to show. It's not a matter of not liking what the person stands for or not being totally impartial. It is when a personal hostility is shown that that can be a bias which may disqualify. 'It will be necessary to establish that the members did not act fairly toward him and made up their minds before hearing his case.'

Did you hear that, Mr. Speaker? The members made up their minds before hearing his case; that would be the necessary action on the part of any group of individual who is not attempting to break the natural law.

I draw to your attention the Premier's comments under Fred Cleverley's column which appeared recently in Vancouver. I also draw your attention, Mr. Speaker, to the comments made by the Attorney General:

Romanow said Collver had made his point, he should let it go through. No matter how long the Unionest Leader continues, Romanow said the bill will go through sooner or later with the majority government vote.

Now, I draw those two comments to your attention Mr. Speaker, because it indicates that before the decision is made, the NDP Leader and the NDP Deputy Leader, who as I've said before, are speaking on behalf of all of the NDP members of this legislative Chamber, have made up their mind prior to the passage of this bill. This means that is a bias which may disqualify under the natural law.

This is shown in *White v. Kuzych* (1951) A.C. 585, where the Privy Council said, (at pages 595 and 596):

. . . their Lordships are bound to conclude that there was, before and after the trial, strong and widespread resentment felt against the respondent by many in the union and that Clark, amongst others, formed and expressed adverse views about him. If the so-called 'trial' and the general meeting

which followed had to be conducted by persons previously free from all bias and prejudice, this condition was certainly not fulfilled. It would, indeed, be in error to demand from those who took part the strict impartiality of mind with which a judge should approach and decide an issue 'between two litigates – that icy impartiality of a Rhadamanthus' which Bowen L.J. and Jackson v. Barry Railway Co. (1893) 1 Ch. 238, 248, thought could not be expected of the engineer arbitrator or to regard as disqualified from acting any member who had held and expressed a view that the 'closed shop principle was essential to the policy and purpose of the union. What those who considered the charges against the respondent and decided whether he was guilty ought to bring to their task was a will to reach an honest conclusion after hearing what was urged on either side, and a resolve not to make up their minds before hand on his personal guilt, however firmly they held their conviction as to union policy and however strongly they had shared in previous adverse criticism of the respondent's conduct.'

Mr. Speaker, can any reasonable person doubt in the province of Saskatchewan, given the statements of Allan Blakeney before Bill No. 105 is even introduced, given the statements of the Attorney General when it is first introduced, that there was a will to reach an honest conclusion after hearing what was urged on either side? Mr. Speaker, I submit to you that because The Legislative Assembly and Executive Council Act is an act to provide for the indemnity of members, that members who have already made up their minds in advance before hearing both sides must be guilty of bias, which must disqualify them from proceeding along the case. Mr. Speaker, the point is that members, through their leaders here, well in advance of this legislation, expressed their views. They said that the bill will go through with an NDP majority anyway. At any rate, it will go through. Therefore, they are biased. They are not able (because they are dealing with their own pay, their own perquisites and their own party status), under the natural law, to judge themselves. They are biased.

In *Law v. Chartered Institute of Patent Agents* (1919) 2 Ch. 276, it was laid down that a person who had a judicial duty to perform was disqualified from performing if he had a bias which rendered him otherwise than an impartial judge or if he had so conducted himself in relation to the matters to be investigated as to lead a reasonable man to suspect that he might have such a bias. Thus where the counsel of the defendant institute in the investigation of the complaint, had acted in the performance of a judicial duty as both accusers and judges, it was held that the resolutions for the expulsion of a plaintiff from membership of the defendant institute must be declared invalid and ultra vires.

Now, Mr. Speaker, I realize that whatever I present to this legislative Chamber is probably going in one deaf ear and out the other. We can show that it is in opposition to the Canadian Bill of Rights. We can show that it is in opposition to the Saskatchewan Bill of Rights. We can indicate that it is in opposition to the tradition that members must act on behalf of all constituents and not just on behalf of party constituents. We can present all of these arguments. The members have announced already that they have made up their minds and they are going to pass the bill anyway.

You wouldn't allow me to talk about Mr. Shumiatcher so I will just present his idea to you. It is an idea of my own. He was just confirming an idea which I already had. That is, Mr. Speaker, what is the need for Bill No. 105, when all you really have to do is interpret the existing bill in a different way? That is all you really have to do.

Mr. Speaker, the point is, why put the people of Saskatchewan through this? Why put the member for Nipawin through this? I have already told members opposite if that weren't satisfactory, there are other ways to change the law that would be realistic and reasonable. I might not like them, but they wouldn't be attacking individual members. They wouldn't be against natural justice. They wouldn't be against the Bill of Rights. They wouldn't be against any of these things. They would be the choice of the legislature to decide.

Now frankly, Mr. Speaker, I realize all of those arguments are also falling on deaf ears. In other words, the NDP (which I have never been able to understand) refuse to accept anything except their own initial idea on how to change something. I have never been able to understand that attitude.

If someone comes up with a better way to change something, if you really want to change it, if you are bound and determined you are going to change it, why in the world won't you take the better way? That is what I don't understand. Is it something which goes against the mind of someone who is so narrow and so straight that that is the only way to do it, or is it something which you think is a political problem?

If the problem, politically, is the fact you don't want taxpayers' money to go to someone who is going to break up Canada, then you can figure out other ways to do it. One is to take the way in the law which says there can be no leader and a party. Now, of course, one of the things that anyone who puts forward that suggestion doesn't recognize is this, that a month or two months from today, maybe another member will join the Unionist Party. Then that particular way of avoiding the law might not be so good any more. All of a sudden, taxpayers' money is going to an outfit they think (I don't think) is out to break up Canada. So you see, there's the point. Another member may come over, and then there would be three, not just two.

But I say to them, that's one way of looking at it. There are others. I realize that what I'm saying is falling on deaf ears over there. It's too bad it's falling on deaf ears. I'm starting to lose hope. I really am. I'm starting to lose my heart. I had a lot of heart and enthusiasm for this debate but when I hear the member for Biggar yell order, he's starting to give me back my hope and my heart again.

I was starting to drift away there for a minute. If your heart's not in the debate and you don't have any hope for success, that might shorten the debate considerably. But with the member for Biggar yelling order all the time, when I know that I am in order, then I might just get my heart back. As a matter of fact, that just shot some adrenalin back into my soul.

I feel much better now, and I thank the member for Biggar. It's just given me some new enthusiasm and I would want to return because I know this is exciting to members. I know this is uplifting and giving them all kinds of information and facts. You will remember that I was talking about the personal attitude toward the issue. I pointed out Mr. Romanow's attitude and the Premier's attitude and other attitudes toward the issue. That would certainly indicate that the spokesmen for the members opposite (and they haven't denied this) are suggesting they have already made up their minds. If they have already made up their minds then they're biased against natural justice.

Thus in *R. v. Deal* Justices (1881) 45 L.T. 439, it was held that where justices who were subscribers to the Royal Society for the Prevention of Cruelty to Animals and who took part in the case, there was nothing in these facts to

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create a real bias in the minds of the justices which would amount to a disqualifying interest.

Now you can see, Mr. Speaker, that they are being more than fair to animals here. But the members opposite must consider us to be less than animals in dealing with us in the way that they have with Bill 105.

Similarly, in *R. v. Barton, Ex parte Young* (1897) 2 Q.B. 468, a magistrate who was a member of the Incorporated Law Society . . .

Well, for the member who just shouted across the Chamber that we're not listening, I suggest to him that because of the importance of this issue and the importance of these cases I've been citing, then he's only wasting his time here. He shouldn't even bother coming into the Chamber. He should vote for adjourned debate or he should bring in closure or he should vote for adjournment of the House. . . . (inaudible interjections) . . . Mr. Speaker, it being near 5 o'clock, I move this House do now adjourn.

**MR. SPEAKER:** — Order. The member's not in order to move a motion. The member has already moved the House do now adjourn. Order! The member originally moved that the debate be adjourned. He has now moved that the House be adjourned. Is it the pleasure of the Assembly to adjourn the House? The member has lost the motion.

**MR. COLLVER:** — Mr. Speaker, I then return to the debate and I will proceed with personal attitude toward the issue unless Mr. Speaker realizes it is 5 o'clock.

The Assembly recessed until 7 p.m.