

Legislative Assembly of Saskatchewan
March 2, 1981

The Assembly met at 2 p.m.

Prayers

ROUTINE PROCEEDINGS

NOTICE OF MOTION

HON. MR. BLAKENEY: — I give notice that on Wednesday next, I will move:

That this Assembly opposes the current attempt by the federal government to patriate and amend the constitution of Canada, believing that the unilateral nature of the process is incompatible with the fundamental principles of Canadian federalism, that constitutional changes must have a broad basis of support among Canadians, and that the proposals, if implemented, would upset the balance of Canada's federal system.

I give further notice, Mr. Speaker, that I will, on orders of the day, drop my motion, standing as government motion no. 1, if we have consent to proceed with this motion, which I have just moved. We will be happy to do this today and this, I understand, is the agreement between the parties.

MR. LANE: — Mr. Speaker, I beg leave to withdraw item no. 12.

INTRODUCTION OF STUDENTS

MR. WHITE: — Mr. Speaker, I would like to introduce to you, and through you to members of the House, 12 students from the University of Regina School of Journalism. They are accompanied by two professors, David Green and Al Douglas. I understand that most of them are seated in your gallery, and a couple are in the press gallery. I understand that they will be here all afternoon, and I certainly hope they find the proceedings enjoyable and informative. I will attempt to meet them during the course of the afternoon.

HON. MEMBERS: — Hear, hear!

INTRODUCTION OF GUESTS

HON. MR. McARTHUR: — Mr. Speaker, I would like to introduce to you, and to the members of this Assembly, a number of special guest sitting in the Speaker's gallery who I will not attempt to introduce individually, but who are all directors and superintendents of education here in Saskatchewan, and who are meeting in Regina through their association today and tomorrow. The number includes one who is a former member of this Assembly and is in the gallery.

I would like you to join with me in welcoming them here, and welcoming them to a productive conference during this, the first day of Education Week.

HON. MEMBERS: — Hear, hear!

MR. TAYLOR: — Mr. Speaker, on behalf of the opposition, I would like to join with the Minister of Education in giving a welcome to the directors and superintendents who are here today. I hope you enjoy the deliberations and the debate that takes place, and I wish you well in your job, especially in this important week of Education Week in Saskatchewan.

HON. MEMBERS: — Hear, hear!

HON. MR. TCHORZEWSKI: — Mr. Speaker, I would like to introduce to the House, and to you, a young lady who is in the Speaker's gallery. She is Diane Byers from our neighbor to the south, the United States. She is from Indiana. She is an exchange student at Watrous, Saskatchewan, which is in my constituency, and she is accompanied by Rose and Joe Yaworski from Watrous.

I would like to extend to her, our welcome and our wishes for a pleasant stay in Canada, and an enjoyable and education time in this Legislative Assembly.

HON. MEMBERS: — Hear, hear!

QUESTIONS

Reduction of Crude Oil Production by Alberta

MR. ANDREW: — A question to the Premier, Mr. Speaker. Yesterday, the province of Alberta carried through with its plan to reduce crude oil production by approximately 100,000 barrels a day, to demonstrate its serious opposition to the national energy program. Now I understand you support their right as owner of that resource to exercise production controls.

Mr. Premier, do you support the position of the Government of Alberta in carrying out these cutbacks, as a sound strategy to bring the federal government to the bargaining table to negotiate a fair and equitable national energy program?

HON. MR. BLAKENEY: — Mr. Speaker, the question is: do I support the move of the Government of Alberta in cutting back oil production as a sound tactic in arriving at a fair and equitable national energy program?

I fully support the idea of pursuing a fair and equitable national energy program. I support the right of the Government of Alberta, as the owner of that resource, to make a judgment as to whether or not the price of that resource is appropriate, as I would expect that any other owner of any other commodity would exercise a judgment as to whether or not he sells at the offered price. I don't express any view as to whether or not this is a tactically sound move on the part of the Government of Alberta. They are obviously able to make tactical judgments for themselves without any assistance or comment by the Government of Saskatchewan on whether their tactics are sound.

MR. ANDREW: — Supplementary question, Mr. Speaker, to the Minister of Mineral Resources.

Mr. Minister, the national energy program has seriously curtailed the development of heavy oil. The most recent export levy has seriously shut down much of the Swift Current field, and now the Alberta cutbacks are going to have a very noticeable effect on the production of high-sulphur crude in southeastern Saskatchewan.

Can the minister advise the Assembly as to the magnitude of the impact of the cutback, the effect that it's going to have on the coffers of the province of Saskatchewan and whether or not the producers can look for any relief from the Government of Saskatchewan?

HON. MR. COWLEY: — Mr. Speaker, the level of the impact in southeastern Saskatchewan is difficult to assess precisely, but I agree with the member it will be significant. Obviously the loss for the province will be determined by how much of that crude oil does not find a market, and it could indeed be significant.

The basic problem is that our so-called sour light crudes in southeastern Saskatchewan are blended with sweet Alberta light crudes in order that they can be refined in eastern Canadian refineries. With the decline in Alberta light crudes that are available, less of our crude oil can be used in eastern Canadian refineries, because it will be replaced with oils which don't have the same beneficial effects as those in Alberta do.

I think it's too early to be precise in what the impact will be. I do know that my officials advise me it will be significant.

I might say in response to the member's last question that we do not have any current intentions of significantly reducing our royalties to counter the effect of the national energy program. Last year we had in place the same royalty program as we do now. We had a record year in the Saskatchewan oil industry. We believe that had there not been a national energy program in place, with the impact it's having on Saskatchewan, we would have had an even better year this year. We do not believe that to be the case now because of the national energy program.

We are continuing our discussions with the federal government at the official level. I personally informed Mr. Lalonde of our opposition to the program and the impact it's likely to have. Obviously we are not as a government and I, as a minister, pleased with the national energy program and its impact on Saskatchewan. In December, when I met with the ministers from Alberta and British Columbia, we jointly stated our opposition to the national energy program and that remains our position.

MR. ANDREW: — Mr. Minister I believe your statement was that you did not anticipate a significant reduction in royalties. Given the fact that the national energy program has impacted more severely on Saskatchewan because of the higher royalties of Saskatchewan and because of the income tax situation, is the government giving any consideration to reducing the royalties so the producers in Saskatchewan at least have a break-even or a marginal profit position rather than the minus or negative situation that exists now?

SOME HON. MEMBERS: — Hear, hear!

HON. MR. COWLEY: — Well, I am rather disappointed, Mr. Speaker, because the last thing ever expected was that the members opposite would make the same argument as the federal Liberals. That is indeed their position.

Mr. Speaker, the federal government has said that their national energy program does have a negative impact on producers and they have suggested to both Alberta and Saskatchewan that we should make up for it by vacating the field which they have tried

to take. First of all, I don't agree with that in principle and, secondly, I think it would be a very dumb negotiating tactic.

Saskatchewan Position on Constitutional Proposals

MR. LANE: — On Saturday the Deputy Premier is quoted as stating that Allan Blakeney has to come off his opposition to the package, the package being the constitutional proposals of the Government of Canada. Does this indicate a further division between yourself and the Deputy Premier on the government's position or is the Deputy Premier urging the Premier to now get back on the fence, the position which he had take up until two weeks ago?

HON. MR. BLAKENEY: — Mr. Speaker, the statement was not made by me so I cannot tell you the precise meaning of the speaker. But obviously the Deputy Premier was making the point that our opposition to the federal proposal goes right down the piece, that we are opposing virtually each part of the package. The Deputy Premier was making the point that if we are to have any resolution of the matter by agreement between the federal government and a large majority of the provinces, it will be necessary both for the federal government and a large majority of the provinces to move their position somewhat. I would expect that is an appropriate prediction. If we are to get an agreement (and that was the context of the Deputy Premier's question). I doubt whether it will be possible for the federal government to maintain its position or for all the provinces to maintain theirs.

MR. LANE: — There seems to be a significant difference between statements made by the Deputy Premier and the Premier because we have that example and, secondly, the Premier has indicated that there would be no joining of the court challenge, but the Deputy Premier has said that the province of Saskatchewan may join the supreme court challenge. Would you now state either your position or the government's position, whichever one you are taking, as to whether or not you would be joining the court challenge?

HON. MR. BLAKENEY: — Mr. Speaker, the question is a hypothetical. The only court cases which are currently extant are the ones before the court of appeal in Newfoundland and the court of appeal in Quebec. We have stated categorically that we are not joining in either of those. We do not know whether there will be an appeal to the supreme court, although I must say it's likely. So far as I'm aware, none has been launched. If and when one has been launched we will give our consideration to whether or not we would become a party. We will not become a party to the position asserted by the six provinces in the court below that unanimity is necessary. That is not our position. There may, however, be some status to go before the supreme court and take another position. That is not possible to determine until one knows the parameters of the likely appeal.

MR. LANE: — I'm sure the Premier would take the warning in the spirit in which it is given. You have been successful to date in waffling and not stating positions because it can't be determined at this time. You delayed your appearance before the constitutional committee for a long time. But I'm going to point out another inconsistency and I would ask the Premier to answer this. You argued in the past that if Ontario should have a veto, then Saskatchewan should have a veto. (And I think that's a position which you had taken at different times. You're shaking your head that you are not being accurate.) You now have indicated on a CBC program on Friday, I believe,

that Canada is basically made up of four regions and that each region should have a veto, and I think that was the suggestion you made. I think the Premier will admit that if the West is to have a veto it must start to work together in order to have common ground, in order to have a common position. Would the Premier now admit that he has been moving to the Conservative position in that area, that western Canadians must begin to work together and western government must work together in order to get fairness and equity in the constitution.

HON. MR. BLAKENEY: — Mr. Speaker, I entirely agree with the hon. member that western governments must work together, and I think the record of our government in working with western governments over the last 10 years is exemplary. It was in association with my fellow western premiers that the western economic opportunities conference was launched. My colleague, the Premier of Alberta, and I have been able to work in the milieu of the four western premiers; he, when there were three New Democrat western premiers; I, when there were three Conservative western premiers. And we have continued to do that in the interest of western solidarity. We cannot agree on every issue but we agree on a large number — there is no question of that.

To direct my attention to the first remarks of the hon. member for Qu'Appelle, it has been the position of our government that we generally supported an amending formula along the lines of the Victoria Charter. I have said that at conference after conference. That amending formula is one which involves dividing Canada into four regions and having a majority in each region before there is an amendment to the constitution. We have not taken, and do not take, the position that all eleven governments in Canada must necessarily agree on all the details of every constitutional amendment from here forward. That is not the position of the Government of Saskatchewan, and we do not now take it.

Mistikwa Community College

MR. TAYLOR: — Mr. Speaker, a question to the Minister of Continuing Education. Mr. Minister, it has been brought to my attention that the ledgers and the financial documents of Mistikwa Community College in North Battleford have been seized by the RCMP, and that also in the past year and one-half there have been about 10 resignations from the staff of that community college, and that other employees are threatening to walk out if the rather corrupt administration practices are not corrected. What action have you taken, Mr. Minister, to look into this problem and will you inform the Assembly (if you have taken action) what your finds are?

HON. MR. McARTHUR: — Mr. Speaker, with respect to any RCMP investigation I would not wish to comment on an investigation undertaken by the RCMP. I'm sure the hon. member would realize that it would be neither appropriate nor correct for me to insert myself into any of the activities related to an RCMP investigation. I am sure that when such an investigation is complete we will be aware of the results of that investigation. I might say that the hon. member makes some rather sweeping charges with respect to management practices in that community college. I will say that I'm aware there have been difficulties associated with the administration of that community college. I have taken steps to ascertain the facts with respect to those difficulties, and I am now assessing my responsibility with respect to those difficulties and will be taking appropriate action at the appropriate time.

MR. TAYLOR: — Supplementary. Mr. Minister, will you provide to this Assembly a full account of the findings that come out of your investigation of the Mistikwa Community

College to assure us that there has not been a misuse of public funds? Will you give your findings to this Assembly?

HON. MR. McARTHUR: — Mr. Speaker, I would certainly be accounting to the members of this Assembly for the activities of community colleges in my responsibility as Minister of Continuing Education. I am not sure exactly what the hon. member is referring to. If he is referring to an accounting of the investigations that the RCMP is involved in with regard to what I understand is a very specific matter, that would be something the Attorney General would speak to. But with regard to the general administration of community colleges, and this community college, of course, I will provide an account to the hon. member at the appropriate time.

MR. TAYLOR: — Supplementary on this topic. Mr. Minister, my question and what I want to find out is: have there been wrong practices at the Mistikwa Community College? You are investigating: the RCMP is looking into it. Will you provide the findings, whatever they may be, to the members of this Assembly.

HON. MR. McARTHUR: — Certainly I am prepared to provide to the members of this Assembly the results of any reviews I undertake.

Federal Herd Maintenance Program

MR. GARNER: — My question is to the Minister of Agriculture. Mr. Minister, it is a fact that in Saskatchewan today the federal herd maintenance program is in total chaos and shambles. What communications have you or any of your department officials had with the federal minister, Mr. Eugene Whelan, regarding this program that is affecting every cattleman in the province of Saskatchewan today?

HON. MR. MacMURCHY: — Mr. Speaker, in reply to the hon. member for Wilkie, I can't recall recent correspondence with the federal minister of ministers with respect to the herd maintenance program. There was correspondence going back to early in the fall in which I joined with the Minister of Agriculture from Manitoba. I think it is safe to say that in the new year the hon. minister from Manitoba and I have really given up attempting to deal with the federal ministers to get the program turned around. What we have been doing in responding to requests coming from producers (and they have been significant) is referring the producers to the members of the appeal committee. (I understand the hon. member knows there has been an appeal committee established) and referring them also to their member of parliament as well to the ministers responsible in the federal government.

MR. GARNER: — Supplementary, Mr. Speaker. Mr. Minister, I don't know whether you are aware of it, but I would like to bring it to your attention that some of the cattlemen in Saskatchewan who did receive the herd maintenance program funding payments in January have now, at the end of February, received a letter telling them that it was a computer error and they have to send the money back. Now, these farmers have bought feed to feed this cow herd. Now I'm not dumping on you, Mr. Minister, not at all! I would like you, Mr. Minister, today to join with me to send a telegram to the federal minister, Mr. Eugene Whelan, telling him to investigate this and get it cleaned up. The farmers and cattlemen of Saskatchewan need this money. They have applied for it and don't have it to send back. They received it in January.

HON. MR. MacMURCHY: — Mr. Speaker, I would be glad to join with the hon. member in

sending a Telex to the Hon. Minister of Agriculture and the hon. minister responsible for the Canadian Wheat Board. The program seems to be bouncing back and forth between them. Our message (and I think the Telex should express this if we get together on it), should not only express the concern raised by the hon. member for those who have been paid and have a letter saying they have it to pay it back, but more particularly should express concern for those who have not been paid at all. I say to the hon. member that that number is significantly larger than the number who have been paid and have been asked to pay it back.

Finally, Mr. Speaker, I am pleased to hear the hon. member is supporting the efforts of Saskatchewan in the drought assistance program and condemning along with us the efforts of the federal government. The federal government's program has been a disaster, particularly as it relates to the herd maintenance program.

Prince Albert Pulp Mill Sale

MR. McLEOD: — Mr. Speaker, my question is to the minister responsible for Crown investments corporation. Mr. Minister, since your announcement in January of the purchase of Prince Albert Pulp Co. Ltd. and chemical plant, including the Meadow Lake Sawmill which I am particularly interested in, there have been no indications from your government at all regarding its intention with regard to the Meadow Lake Sawmill. In view of the extreme hardships that the long-term closure of the mill has had on the Meadow Lake economy, and in that area, I would ask you if you will today inform the House and the people of that area just what the intentions of your government are with regard to the mill of which you now own 100 per cent?

HON. MR. COWLEY: — Well, Mr. Speaker, at the time we acquired the shares of the Prince Albert Pulp Company we indicated that we were going to be holding negotiations with some people in the private sector with a view to bringing a new partner into the Prince Albert Pulp Company. Those negotiations are ongoing. We have indicated publicly that we intended to operate on an interim basis with the Prince Albert Pulp Company, and we didn't intend to make any major changes in its questions.

With respect to the Meadow Lake Sawmill, the advice I have been receiving from the people in place now is that there is no economic way that the sawmill could be reopened at this point in time. What we have said to the potential partners we are talking with is that this is one of the first things we would like them to look at. We have it on our list in terms of our new partnership and what the future may hold for it.

MR. McLEOD: — Supplementary question, Mr. Speaker. Mr. Minister, the question I am asking you is on behalf of the people. There we're talking about 150 jobs worth \$2 million to the economy of that area. You profess to purchase industries like this on behalf of the people of Saskatchewan, yet you give them no information as to what their future will be in terms of their jobs. They're selling their houses. They're going to Alberta; there's no question about it. They're being hired in that same industry by Canfor and other companies just across the border in Alberta. So there certainly is a market for the same type of industry. Mr. Minister, my question is this: do you not agree that when you purchase industries on behalf of the people that you certainly owe it to those same people to give them information regarding what you intend to do with their money?

HON. MR. COWLEY: — Well, Mr. Speaker, the member obviously didn't listen very

closely. When we purchased the mill it was closed and there was no indication that the mill was going to be opened in the near future .-. (inaudible interjection) .-. Well the member realizes the reason was that it came along with the P.A. pulp mill. Otherwise I'm sure no one would have been buying.

Mr. Speaker, what I've been trying to say to the member is that at this point in time there is no economic analysis that will suggest that the mill should be reopened. If one takes a look at lumber prices one can see why. What I have said is that when we have in place the new partnership, we intend, along with our new partners, to take a look at this and make a final decision with respect to the disposal of the future of that mill. Now, I think if the member looks at the history of the mill and how it got there, it is rather interesting. Whether or not it should ever have been there is, of course, another .-. (inaudible interjection) .-. Well, Mr. Speaker, the fact is that we do own it. I agree with that.

MR. ROUSSEAU: — A supplementary to the minister responsible for CIC. Would you mind advising the Assembly, Mr. Minister, what you paid for the Prince Albert pulp mill? Secondly, I understand the pulp mill is for sale. How much are you trying to sell it for? Two questions.

HON. MR. COWLEY: — Well, Mr. Speaker, the member obviously doesn't really want us to do very well because he wants us to negotiate in public. I'm not going to comment on the price that we're asking for it — as much as we can get — let me put it that way. With respect to what we paid for it, we exercised our right of refusal. We paid, in effect, the price that the people who were going to acquire the P.A. pulp mill had offered to Parsons and Whittemore. What I have said is that now when negotiations are going on .-. (inaudible interjection) .-. If the member for Indian Head-Wolseley would shut-up and listen once in a while he might hear something.

Mr. Speaker, it's going to be better by the end of March, I can tell. I'm coming in like a lamb and out like a lion.

What I want to say is that when the negotiations are complete, then we take a look along with our partners, at what financial data we will make public. In the event that for some unforeseen reason the mill continues to be operated as a public company for some extended period of time, I would then make public the price and table in the House an analysis which we have done which justifies the price we paid.

Clean-up of PCB Spills

MR. KATZMAN: — Mr. Speaker, a question to the minister responsible for the environment. You issued orders for the clean-up of the PCB (polychlorinated biphenyl) spills at both Inland Steel and Federal Pioneer. Did you issue any other orders for the clean-up of PCB spills?

HON. MR. BOWERMAN: — Mr. Speaker, the order we issued to Inland Steel was not an order to clean-up a PCB spill. The order we issued to Federal Pioneer was for the clean-up of that particular chemical. With respect to other orders that have been issued, I would have to take the question under advisement and bring the answer forward for the member.

MR. KATZMAN: — Supplementary. Could you inform this House then, when you are checking, why you have not given an order to the Saskatchewan Power Corporation to

clean up the spills it has on Avenue C in Saskatoon, where it has been spilling the containers for many years?

HON. MR. BOWERMAN: — Mr. Speaker, as to any information available to the member, if he considers that information to be important for the purposes of the Department of the Environment, through me, issuing clean-up orders, there is legislation which requires people who spill chemicals to report it. If the hon. member knows of some materials that have been spilled and hasn't reported it, I think he finds himself in a position where he should have reported it earlier. However, with regard to any spills that are there, that are reported and are significant to the point of requiring clean-up, we will take whatever action we deem necessary.

MINISTERIAL STATEMENTS

Education Week in Saskatchewan

HON. MR. McARTHUR: — Mr. Speaker, I wish to bring to the attention of this Assembly, the citizens of Saskatchewan and the media, that the Premier of Saskatchewan did, on February 4, 1981, designate the week of March 1 to March 7 as Education Week in Saskatchewan. I want to inform the members of this and it gives me great pleasure to join parents, trustees, teachers, students and citizens of Saskatchewan in celebrating Education Week and in celebrating our education system in this province. It is my personal belief, Mr. Speaker, that we have a fine education system in Saskatchewan. It is something we can be very proud of. I believe that it is the best in Canada and something we should celebrate and appreciate.

The theme of this year's Education Week is Saskatchewan Education, Opening Doors for Everyone. This theme attempts to emphasize two points. It attempts to emphasize the importance of opening the doors to our education system to our citizens so there is more open communication and participation by all people in the education system.

Education is, I believe, everyone's business and through this theme we hope to invite parents, we hope to invite members of this legislature, we hope to invite citizens of Saskatchewan, to come into our schools, universities, technical institutes and community colleges, and find out more about what is happening and communicate with the students, the teachers and the trustees in those systems.

In addition to that, Mr. Speaker, this theme emphasizes the importance of education in terms of opening up opportunities for our young people, our adults and all of our citizens. I believe that education plays an extremely critical role in terms of generating opportunities for full participation as citizens and as productive members of our society for all people. This then emphasizes something we are trying very hard to do in Saskatchewan and are very proud of, and that is the attempt to ensure that there is full opportunity and equal opportunity for all citizens, regardless of background, to participate fully and to benefit fully from a good quality education.

I would draw to the attention of members and citizens, and the media as well, that trustees, universities, schools and technical institutes all across the province are holding special activities and functions this week to provide an opportunity for us, as citizens and as persons with responsibility and interest in education, to come in and communicate and find out more about what is happening.

I would like to encourage all members of this Assembly to take the opportunity to

participate in those activities so they too can be a part of that process of communications and understanding. Now I personally will be devoting a substantial amount of my time this week to doing that very thing and I would invite other members, as well as the media to do likewise.

SOME HON. MEMBERS: — Hear, hear!

MR. TAYLOR: — Mr. Minister, since this is Education Week in Saskatchewan, and since education certainly is the key to the future of this province, I agree with the minister that the goal of complete accessibility for all to the best education is what we as legislators and what the people of the province want. I believe and understand that the complexities facing educators and parents in this province in meeting the challenges of the '80s and '90s, the new horizons, is a very important decision, a decision which all people must take very seriously because it is the key to our future.

I join with the minister in urging all legislators and parents and interested people in this province to visit their schools and to discuss with the people running these schools the goals which we want to achieve in public education in this province.

SOME HON. MEMBERS: — Hear, hear!

INTRODUCTION OF BILLS

Bill No. 29 — An Act to amend The Automobile Accident Insurance Act

HON. MR. ROBBINS: — Mr. Speaker, I move first reading of a bill to amend The Automobile Accident Insurance Act.

Motion agreed to and ordered to be read a second time at the next sitting.

Bill No. 30 — An Act to amend The Vehicles Act (No. 2)

HON. MR. ROBBINS: — Mr. Speaker, I move first reading of a bill to amend The Vehicles Act (No. 2).

Motion agreed to and ordered to be read a second time at the next sitting.

Bill No. 31 — An Act to amend The Saskatchewan Insurance Act

HON. MR. ROBBINS: — Mr. Speaker, I move first reading of a bill to amend The Saskatchewan Insurance Act.

Motion agreed to and ordered to be read a second time at the next sitting.

ANNOUNCEMENTS

Certificate of Elections and Returns

MR. SPEAKER: — Before orders of the day I have an announcement to make to the Assembly.

I beg to inform the Assembly that the Clerk of the Legislative Assembly has received from the chief electoral officer a certificate of the following elections and returns: of

John Otho Chapman, Esq., as member for the constituency of Estevan; of Neal Hebert Hardy, Esq., as member for the constituency of Kelsey-Tisdale; of David Manly Miner, Esq., as member for the constituency of The Battlefords.

HON. MEMBERS: — Hear, hear!

Appointment of Clerk Assistant Procedural

MR. SPEAKER: — I beg to inform the Assembly that David Joseph Mitchell, Esq., has been appointed Clerk Assistant Procedural of the Legislative Assembly.

HON. MEMBERS: — Hear, hear!

ORDERS OF THE DAY

PRIORITY OF DEBATE

Constitutional Position of the Government of Saskatchewan

MR. LANE: — Notice of intention was given to the Clerk this morning, notice of my intention to move that a matter of urgent and compelling public importance be given priority of debate under rule 17. The statement of this matter is as follows:

There is legitimate cause for concern and fear that the resolution respecting constitutional change currently being debated in the House of Commons, Canada, will have debate limited by closure.

This resolution, which affects the status, the rights and the privileges of the people of Saskatchewan, does not have the support of the people of Saskatchewan. It is, therefore, of urgent and compelling importance that the constitutional position of the Government of Saskatchewan be given priority of debate under rule 17 so that its position may be placed before the House of Commons before the impending vote.

MR. SPEAKER: — Does the member have the motion? A notice regarding this matter proposed for priority of debate was received in the clerk's office at 11:55 a.m., for which I thank the hon. member.

Matters raised under rule 17 must be of urgent and public importance. I am sure all hon. member members will agree that this matter is important. The intent of rule 17 was to provide the Legislative Assembly with the opportunity to debate a subject which was not of a continuing nature but one that had just arisen. I am sure all hon. members will agree that the matter of constitutional change is a continuing one. Matters under rule 17, from Beauchesne's *Rules and Forms of the House of Commons of Canada*, Fifth Edition, paragraph 285, page 91, and I quote:

... must deal with a matter within the administrative competence of the government and there must be no other reasonable opportunity for debate.

I further refer all hon. members to rule 17(10(d) which reads:

... the motion must not anticipate a matter which has been previously appointed for consideration by the Assembly, or with reference to which a

notice of motion has been previously given and not withdrawn.

Two motions are already on the order paper pertaining to the constitutional question. I rule that this matter cannot be raised under rule 17 since the matter is a continuing one and one that can be debated today, and because it anticipates two notices of motions presently on the order paper.

I refer all hon. members to precedents of the Legislative Assembly of Saskatchewan: May 16, 1980, April 14, 1977, and April 13, 1977. I also refer all hon. member to Beauchesne's *Rules and Forms of the House of Commons of Canada*, Fifth Edition, page 91, paragraph 285.

MR. LANE: — I would like to speak to your ruling.

MR. SPEAKER: — Order! I have made my ruling and I am afraid the member can't debate the ruling.

MR. BERNTSON: — On a point of order, Mr. Speaker. I would like Mr. Speaker, to clarify one thing. Part of our ruling dealt with the fact that there were two similar motions on the order paper. I think that prior to orders of the day, or back in routine proceedings some place, both of those were withdrawn and dropped.

MR. SPEAKER: — I think the Leader of the Opposition has a valid observation and the observation has to do with the discrepancy between one and two. The point I was making in the ruling (and I think it is unnecessary to explain it) is that whether it is one, two, three or a half-dozen it anticipates something that is on the order paper which can be discussed today. I think the validity of the ruling stands unimpaired by the observation of the Leader of the Opposition.

MR. LANE: — I want to raise a new point of order, Mr. Speaker. Part of your ruling was that this was of an ongoing nature. I think it is fair to say, in fact, that the position of the government opposite is not of an ongoing nature and may change from time to time.

MR. SPEAKER: — Order, order! I now that the member for Qu'Appelle is eager to get into a debate on this matter, and since I have not brought my notes with me I am sure he will help me to move down the order paper to a place where we can maybe get into something of that nature.

MR. LANE: — With all due respect, Mr. Speaker, you are presupposing that there will be approval.

MR. SPEAKER: — I can only go by what is before me on the order paper. I have something under government orders which I will now call.

GOVERNMENT MOTIONS

Constitution of Canada

HON. MR. BLAKENEY: — Mr. Speaker, I would like to drop motion no. 1. By leave of the House I would like to introduce a substitute motion which I read under the heading of notices of motions and questions. I will not take the time of the House to read it again unless members opposite ask. I supplied the Leader of the Opposition with a copy. I drop the motion and I ask leave to introduce a substitute motion.

MR. SPEAKER: — The members have heard the request by the Premier for leave to introduce a substitute motion under government motions. Is that agreed?

AN HON. MEMBER: — As indicated in the *Leader-Post*.

MR. SPEAKER: — I call on the Premier.

HON. MR. BLAKENEY: — Mr. Speaker, I know that all hon. members will record this occasion and note it as March 2, an occasion when the *Leader-Post* was not wrong.

Mr. Speaker, the motion which I dropped dealt with the position of the Government of Saskatchewan when it was put on the order paper some months ago and the great bulk of it would still stand. Since that time some events have caused a further position of the Government of Saskatchewan. I think therefore that the new motion will allow this Assembly to express, to the Government of Canada and to others who may take note of our position, its view of the role that the Government of Saskatchewan sees as appropriate in the ongoing constitutional debate.

Let me just talk a little bit about the history of this issue which is now so very much to the fore in Canada. We know that Canada became a country by the passage of the British North American Act of 1967. It is often referred to as the constitution of Canada. But at that time Canada was a colony and, as a British colony, it was not thought that the British North American Act would be amended except if, as and when the British parliament decided to amend it. Canada has gradually changed its position, its status, from that of a colony to a fully independent country. It is not easy to say with precision when Canada was an independent country but I think that following World War I, when Canada signed the Treaty of Versailles and when Canada joined the League of Nations as an independent country, everyone acknowledged what had been clear for decades, that Canada was independent.

However, we did not have a constitution which allowed Canadians to amend that constitution. This matter was addressed at a number of imperial conferences, notably commencing with the one in 1926, and led to the formulation of the Statute of Westminster which was passed by the British parliament in 1931. The statute in effect said that any law passed by the British parliament after 1931 should have no effect on Canada, Australia, New Zealand or the Union of South Africa or the Irish Free State, which were also covered by the Statute of Westminster. That was the way the Statute of Westminster was drafted.

Canadians, on seeing this said, "Wait a minute. If future acts of the British parliament have no effect in Canada, we will have no way of amending the British North American Act. Please, therefore, insert a provision in the Statute of Westminster which says that even though no other British act passed after 1931 could have any effect on Canada, that British acts dealing with the amendment to the British North American Act will have effect." That is, in effect what section 7(1) of the Statute of Westminster says. It says, "Hold on there; we don't know how to amend the British North American Act; you are going to have to do it for us." This request was sent formally to the British parliament reciting that all of the provinces and the House of Commons and the senate agreed. That was the situation. As the history of the day will indicate everybody assumed that Canadians would get together and find a way to amend the British North American Act in Canada in a few years and that amendment would then be introduced into the British North American Act and then the provision of the Statute of Westminster would be

repealed, and we would have a British North America Act with an amending provision contained therein.

Well, as we all know, some 50 years have gone by and we still don't have a way of amending the British North America Act in Canada. We have made a number of amendments to the British North America Act. I should perhaps indicate here that the British North America Act can be amended in matters which concern only the federal government by act of the federal government. It can be amended in matters concerning only the provincial governments by act of this legislature. When I say that the British North America Act cannot be amended in Canada, I am, of course, referring to those amendments which affect the power of the provincial governments and the federal government to make laws: matters which may affect the division of legislative jurisdiction between the federal government and the provincial governments.

There have been since 1931, a number of changes which have affected the legislative power of parliament and the provinces to make laws. All of those have been made by act of the Parliament of Canada or (correction) by a resolution of the two Houses of the Parliament of Canada and with unanimous provincial consent in each case.

Canadians have addressed this matter on a number of occasions. Some will recall the round of negotiations which took place in the early 1960s. I had occasion to attend some of the conferences called by the Hon. Davie Fulton who was minister of justice. These were followed by conferences called by the Hon. Guy Favreau when he succeeded Mr. Fulton as minister of justice. These produced an amending formula which came to be known as the Fulton-Favreau formula. That did not achieve the necessary consent to have it forwarded to Westminster to be included as our amending formula.

Another round of discussion took place in the late 1960s culminating in the federal-provincial conference at Victoria which gave rise to an amending formula known as the Victoria Charter. During the 1970s a number of proposals were put forward bearing such names (I mentioned the Victoria one), the Toronto consensus, the Vancouver consensus, the Canadian Bar Association formula and many others.

We addressed the matter of amending the constitution in real earnest in the late years of the 1970s. We had by this time reached the conclusion that we were unlikely to be able to repatriate or patriate the constitution with an amending formula unless there were other changes. We addressed ourselves, as 11 governments to fashioning a pattern of changes which would meet with broad general acceptance across Canada.

We had a very fruitful federal-provincial conference in October and November 1978, and a further one in February 1979. At that time a good number of provisions were agreed upon, at least tentatively, and so-called best efforts drafts were arrived at on such thorny matters as the control and management of resources, communications, family law and a number of other items.

This round of negotiations was effectively terminated by concerns respecting the upcoming Quebec referendum and many of the politicians in Canada directed their attention to campaigning on one side or the other of the Quebec referendum. I, on behalf of our government, campaigned in Quebec and outside Quebec, giving the views of our government (and I hope the people of Saskatchewan) on the Quebec referendum, urging Quebecois to vote in favor of full partnership in the Canadian federation. That

vote came in May 1980, and as you know, it was roughly six to four against the proposal to proceed with the negotiation of something called sovereignty-association.

Prior to that we had had a federal election and accordingly, we had a new situation by mid-1980. We had a new federal government, with a new mandate, and we had a Quebec referendum at which the proposal for sovereignty-association had been turned back. We therefore picked up the negotiations again. In June, 1980, there was a first ministers' conference, a short one to set out the procedure to be followed in the upcoming months.

We agreed that we would set up a continuing committee of ministers' of the constitution, with a co-chairman on the federal side, Mr. Jean Chretien, and on the provincial side, Mr. Roy Romanow, the hon. member for Saskatoon Riversdale, colloquially known as 'the Toque and the Uke'. They chaired the constitutional conferences all summer. They spent four or five weeks at various conferences in Montreal, Toronto, Vancouver and Ottawa, and out of that, unfortunately, no decision was forthcoming.

Mr. Speaker, we took the view that we should during the summer of 1980, build upon the consensus which was arrived at in February 1979. The federal government had a different view. They felt that many new issues needed to be put on the table, and they were put on the table — issues surrounding mobility rights of labor and capital and industry across Canada; issues surrounding a very, very elaborate charter of rights — for the most part, new issues.

We then moved into the September conference. I wish to state and recall some of the positions taken by the Government of Saskatchewan at that September conference. We took the position that unilateral action by the federal government was inappropriate. We took the position that Canada is a federation and that no changes in the constitution of Canada which affect the legislative jurisdiction of the federal government and the provincial governments should be made without what we called the double majority.

I believe that a double majority is part of the constitution of every federal state in the world, and I believe that is part of the constitution of Canada. Whether or not it is part of the law of Canada, we about to find out. In any case, it is part of the constitution of Canada. This involves, I suggest, Mr. Speaker, that no constitutional amendments of that kind should go forward without the consent of the federal government, by which I mean at least the House of Commons and a broad consensus of the provinces. I took that position at the conference. I took the position that the future amending formula should contain the idea of the double majority. At the end of the conference, I deplored those people who were suggesting that the national will was to be found only by looking at the view of the House of Commons (a view which I thought was being put forward by the Prime Minister), and the other view that the national will was to be made up of the will of the 10 provinces of Canada without reference to the House of Commons or the Senate.

I don't believe that either of those views is right. I believe one of them is the view of a unitary state, which Canada is not. The other is the view of the confederal state, which Canada is not. Canada is a federation, and in order to make changes we need that double majority.

Well, as you know, we did not arrive at an agreement, and the Prime Minister

announced very early in April that he was going to act unilaterally. He was going to patriate the constitution of Canada. He was going to add a number of things to the constitution of Canada — a charter of rights, and some other aspects. And he was going to do it all without any substantial measure of consent from the provinces. We immediately announced our opposition, and I held a press conference as soon as I had an opportunity to look at the material filed. I felt that I owed it to the Prime Minister to take a day or two or three to look at his material, and having done so, on October 9 my press release said (among other things) “I regret very much that the Prime Minister felt it necessary to act in this manner, i.e. unilaterally. It is inconsistent with our historical traditions and with our present conception of Canada as a federal state.” The later in the same press release: “I want to leave no doubt of my strong objection to the unilateral nature of Mr. Trudeau’s proposed action.”

There could then be no doubt where the Government of Saskatchewan stood immediately after the federal resolution was tabled in the House of Commons and the Senate. Very shortly thereafter, a few days thereafter, the 10 premiers met in Toronto to consider the matter. At that time it was clear that a difference was to be seen among the premiers. Two of the premiers, the Conservative Premier of Ontario and the Conservative Premier of New Brunswick, said that they approved of the unilateral actions. Six of the premiers — five Conservative premiers and one Social Credit premier — took another position. I’ll come back to that in a moment. The Premier of Nova Scotia and Premier of Saskatchewan took a third position. I do not here seek to speak for the Premier of Nova Scotia. There may have been a third and a fourth position, but I want now to tell you what the position of the six premier was, as I perceived it, and why we did not agree with it.

The six premiers, the premiers of British Columbia, Alberta, Manitoba, Quebec, Prince Edward Island and Newfoundland, decided to launch a legal action to see if they could stop the federal unilateral actions. They decided to launch it on the grounds that the action was illegal because it did not have the unanimous consent of the provinces. The member for Moosomin will doubtless have heard that. Members must understand that we are not now talking solely about a convention of the constitution, because conventions of the constitution by and large are not legally enforceable. The position taken by the six provinces was not only that this was a convention of the constitution, but also that it had hardened into law and the courts would enforce it. That was their position and as a result of that six provinces have, in one way or another launched three legal actions — one in Manitoba, one in Newfoundland, and one in Quebec. We did not join that action for two reasons. One, we did not believe it was sound in law. We believed, as the six premiers believed, that it was certainly a convention of the constitution. We did not believe that the Canadian courts would enforce it as part of the law.

The position of our government on October 14 was set out in a very lengthy press release which I issued in Toronto and anyone who wishes to know the position of the Government of Saskatchewan on that matter will be able surely to ascertain it from reading that. There is, I think, no question that in our judgment there were grave concerns about whether or not this was sound in law. And there still are concerns. I don’t know what the outcome will be. In our judgment the six provinces will not prevail. We only have one judgment, from the Manitoba Court of Appeal, It was three to two for the federal position, certainly indicating that the provinces have no arguable case.

It is, I think, interesting to note that on the basic argument advanced, that this convention had hardened into law, not more than one judge held with that position —

not more than one, depending on how you read Mr. Justice Husband's judgment. Certainly the lead judgment for the provinces, the judgment of Mr. Justice Solomon did not support that view of the law. He went off on another tack. We did not join that for another reason. We believe that basically Canadians did not want the provinces to assert the proposition that every change in the constitution had to have the unanimous consent of 11 governments. We did not believe that that was sound in law, but perhaps more important, that it was in line with what Canadians from coast to coast wanted. We believe that Canadians from coast to coast wanted, and still want, patriation. We believe that Canadians wanted, and still want, an amending formula but we believe also that Canadians wanted, and still want, the rights of the provincial governments and the federal government respected in this process.

Our view was one which is not in accord with that of the federal government, which asserts that these changes must be made or can be made on the basis of the unilateral action of the federal government. It is not the view of the six provinces which says that these changes can only be made with the unanimous consent of the 11 governments. Our view was that we ought to attempt to get a package which could command the support of the federal government and of a broad consensus of Canadians across Canada but not necessarily all of the 10 provincial governments. That was our position and continues to be our position. We set out to work in that direction to see whether we could not either strip down the package to make it more broadly acceptable or alternatively add to it to make it more broadly acceptable.

Let there be no doubt at all as to what our position was. It's all on the record. When we appeared before the parliamentary committee on December 19 our preference at that time was the same as it was at the end of the September conference. We believed that the first step ought to be a return to the bargaining tables. That was our position at the end of September, was restated again in December and incidentally is our position today.

We believed that if the federal government were unwilling to return to the bargaining table with all matters open, then we ought to arrived, by bargaining or at least by negotiation, at an amending formula, that we ought to proceed now with patriation and an amending formula and that is all — what I called before the parliamentary committee a bare-bones amending formula. I believe that that is the proper course of action. I believe that that is the proper course of action because I think it is the only one on which there is a large measure of agreement by Canadians from coast to coast, and I believe it's the proper course of action in our dealing with the parliament of Westminster. There is, I think, no doubt from the history of the Statue of Westminster which I have recited that the British agreed to be the trustees of our constitution on the understanding that the Canadians would put together an amending formula, put it in the British North America Act, and then the British would be done with it. They did not bargain for Canadians including huge charters of rights and the rest in the constitution, and then ask the British to pass upon whether or not this was wise or prudent for Canadians.

For all of those reasons, I have said and I continue to say (it's all on the record of when I appeared before the parliamentary committee in December), that our next step, if we cannot get back to the bargaining table with all matters open, is to arrive at what I call a bare-bones amending formula. I think that is the proper course of action. If that is not going to work, if in fact a very large number of Canadians felt — as apparently a fair number do — that we ought to entrench a charter of rights and other things in the package at this time, then we ought to see if we can get a package which is more broadly acceptable to Canadians from coast to coast.

As we saw the package, it included certain language provisions embedded in the charter of rights which were said to be of interest to the people of Quebec. Whether true or not I do not know, but I think we must concede the fact that Mr. Trudeau has considerable status to speak for the people of Quebec after his electoral victory there earlier in 1980. There were embedded in the charter some mobility rights which were said to be of importance to the province of Ontario — they certainly argued strongly enough for them at the federal-provincial conference in September. There were some equalization provisions of very considerable interest to the four Atlantic provinces and I suspect to Quebec. But there was not very much of interest specifically to western Canadians.

We felt if we were building the big package, if we could have inserted provisions with respect to resource control, that these would offer some concessions or some advantages for western Canada. Please understand that they were never intended to deal with the issues surrounding federal government versus provincial government jurisdiction in resources. They were primarily designed to deal with issues surrounding provincial government versus resource companies. They flowed out of the cases we had lost in the supreme court — The Cigol case and the central Canada potash case, and neither of those involved any clash of federal legislation with provincial legislation. Each was concerned only with whether or not provincial law was valid, having regard to provincial constitutional jurisdiction. That's what the resource provision were designed to deal with; we dealt with them exhaustively in 1978 and 1979, and arrived, as I said earlier, at a best-efforts draft to deal with them. The federal government has withdrawn from some of its earlier agreements, but there was some suggestion that provisions would be included which would be of assistance to western Canada.

On the basis of this, we argued for the inclusion of resource provisions which would firstly give us the right to tax indirectly as well as directly; secondly confirm our right to control the rate of production and like matters of resources in our province; thirdly confirm that right, even though the resource might subsequently enter interprovincial trade and, fourthly, confirm that right, even though the resource might subsequently enter international trade.

The first three items — matters dealing with indirect taxation with the confirmation of the right to regulate the production of a resource even where the resource moves to another province of Canada — are now part of the resolution. The confirmation with respect to a resource which might subsequently enter international trade is not now part of the resolution.

That brought us up to the period early in January, when Mr. Chretien put forward his final amendments. We, I think, remember Mr. Chretien's final amendments and it is my recollection there are not more than 10 or 15 amendments which followed his final amendments. They came about once every half day toward the end of January, but that was part of the process in which we were all involved and in respect of which made it so very difficult to arrive at conclusions concerning the appropriate form of the resolution.

When Mr. Chretien had brought in his amendments, we had a package which included patriation, with which everybody agreed, an amending formula which had a formula for provinces — a legislative formula. If I may put it that way, which said that future amendments would require the consent, in effect, of the region of Quebec, the region of Ontario, the region of Atlantic Canada, represented by any two provinces, and the region of western Canada, represented by two or more provinces, making up 50 per

cent of the population.

While that would not have been our choice of a formula and while we put forward to the parliamentary committee an alternative which did not name Quebec and Ontario but which said there should be seven provinces with 80 per cent of the population — two of the seven being from Atlantic Canada and two of the seven being from the four western provinces and those two or more making up 50 per cent of the population (it's there in the brief) — we were prepared to accept the so-called Victoria Charter arrangement.

The amending formula also contained within it a referendum provision. Our government takes the view that a referendum provision is in appropriate and unwise in constitutional amendments in Canada. Dealing first with a couple of the technical aspects of it, when the referendum provision first came in, it provided that the federal government could introduce an amendment into the House of Commons and the Senate and as soon as that had been passed, it could call a referendum without giving the provinces even the right to consider the matter — what I call the instant referendum. We campaigned strongly against that and put forward some amendments through negotiations with the federal government and other provinces. I am glad to say — I believe partly as a result of our efforts — that that provision is out.

This is only patching something you don't like. It's always a problem when you say you oppose the idea of a referendum to say, "But if it's going to be there I wish to fix it in the following ways." We did that, in part with respect to the proposal for an instance referendum. We did it, in part, with respect to a rules committee which would have something like the powers of the chief electoral officer of Canada. We, however, do not agree with the idea of a referendum, because we believe that it is possible for it to be very, very dividing in a country like Canada.

It is so easy to think of the legislative and constitutional amendments in Canada which would divide region against region. It is so easy to see us ranging ourselves against eastern Canada or against Quebec on a referendum. Canada is a regional country. It is now divided in its outlook. I wish it were not so, but it is true. Many of these divisions can only be healed by compromises. There is no possibility of a compromise with a referendum. It is black or white. This country is only now recovering from the last major, national reference we had during World War II. It was called a plebiscite then. It was a plebiscite as opposed to a referendum. But that divided us into the Quebec region and the other three regions. Those wounds are only now healing. I suggest that we would have more wounds of that nature. We would have the prospect of a federal government launching referenda because provincial governments could not agree with federal action. We would have competing advertising campaigns. We would have gross oversimplification of very complicated issues. And in the end, I suggest, in many occasions we would have region arrayed against region. I suggest that in this country, at this time, a referendum is not an appropriate way to go about constitutional amendment. So, we have opposed the referendum consistently.

There are equalization provisions in Mr. Chrétien's package. The original ones were quite inadequate. We advanced some drafts and the drafts have found their way into the resolution, and we are pleased.

The resource provisions are highly desirable with respect to indirect taxation and our right to regulate and control production of resources. They are inadequate in so far as they leave open the question of what happens when our right to control the production

of a resource runs counter to the federal government's right to regulate interprovincial and international trade.

There is a very extensive charter of rights. The charter of rights contains language rights, protecting the French language. We approve of the language rights contained in the charter. We approve of those contained in the document filed in October. We find some of the new changes obscure. We're not sure what they mean. If they mean what we think they mean, we have no opposition to them. Certainly we would have had no opposition to the original ones filed in October. There are, however, many other things in the charter. It has been the position of our government that we felt that an entrenched charter of rights was on balance not a good idea for Canada. I approve of charters of rights, but I approve of charters of rights passed by the Parliament of Canada and the legislatures of the 10 provinces. I do not wish them embedded in the constitution because I believe that places on the courts the ultimate decision with respect to many broad social issues which, in my judgment, ought to be decided in the political and not the legal arena. I have given many instances of this in the past but I will give a couple today so people will know what I'm talking about.

Take the issue of whether or not there should be capital punishment. People will know that I do not approve of capital punishment. That's not relevant to this discussion. There is in the charter a provision that outlaws any cruel or unusual punishment — in those words. The same words are to be found in the American constitution. In that constitution we have seen in recent years, in the last two decades, a goodly number of supreme court decisions on the matter of capital punishment which have had the effect of laying down the rules under which there may or may not be capital punishment.

I may or may not agree with the Supreme Court of the United States on those matter. I take the view, however, that those are issues which ought to be decided by the public. They ought to be the warp and woof of political discussion. I do not believe that Canadians will long accept willingly the idea that they are removed from the political arena because they are embedded in a charter of rights and therefore are moved to the judicial arena.

I say the same with respect to something like Sunday observance. I don't know whether freedom of religion means the freedom not have the tenets of one religion enforced upon one, but that is certainly a very tenable view. If this is so, then I think we must recognize the possibility of the courts deciding that Sunday is in essence a Christian day, that it is something which we ought not necessarily to expect Moslems, or Buddhists, or adherents to a native religion to adhere to, and therefore there is no justification in law for enforcing Christian holidays like Sunday or Christmas. That has a certain appeal from the point of view of pure logic, but it strikes me that in a country like Canada with a strong Christian tradition, there is a large body of the public that believes that they ought to have a voice in whether, let us say, stores are open Christmas Day, that it ought to be at least partly in the political arena and it ought not, by having it embedded in a charter of rights, be removed from the political arena and moved over to the judicial arena. I could give many, many examples of that. They are there in the charter.

The history of the United States Bill of Rights is instructive in this regard. I had an interesting conversation with a clergyman a few weeks ago. He was a clergyman who took the view that he opposed abortion. He said he went to a conference of clergymen in the United States, and they sat about having a bit of a round robin on the abortion issue. They asked the Americans: "Where is the abortion issue in your state, and in your

state, and in your state?” One said, “Our state court has said this,” and the other said, “The federal court of appeal in our area has said this.” They went around, all stating where the abortion issue was in each court, and they asked the Canadians: “And where do you stand? What do your courts say?” It then dawned on the Canadians that it wasn’t the courts who said what happened in Canada, but it was rather in the Criminal Code and in the statutes of Canada.

Now I don’t know where one stands on the issue of abortion, and it’s not relevant for this particular argument. However, I am of the view that a great number of citizens feel that they ought to have a voice in that issue, and that it ought not to be withdrawn from the political arena and transferred to the judicial arena by reason of having it embedded in a charter of rights. So for all of these reasons — and you’ve heard me give these reasons on many occasions — I take the view that the best compromise is to have a charter passed by the Parliament of Canada, and a charter passed by each province, which will protect each individual, which will serve to be a basis for allowing each individual, if he feels an injustice, to take his case to court, but if in the process of adjudicating on the rights of that individual a broad social issue is determined by the courts, it can still be reviewed by the legislature or the parliament. I think that’s the best balance between protecting individual rights by a charter of rights and protecting the rights of the voters to have a voice in the broad social issues which determine the society in which we live.

SOME HON. MEMBERS: — Hear, hear!

HON. MR. BLAKENEY: — So we have, for the reasons I have articulated, opposed the entrenchment of a charter. I know that my views are not shared by a great number of people whose views I respect. It may well be that I’m wrong on this, but I feel rather strongly that the point of view which I hold ought to be articulated, and ought not to be swept away by those who are simply asserting their devotion to human rights. This is not the issue. The issue is not human rights; the issue is not charters of rights. The issue is the best way to protect human rights, both in the person’s capacity as an individual and his capacity as a voter and a citizen.

It is sometimes argued that all of the Japanese Canadian were badly treated in Canada during wartime, and that it wouldn’t have happened if we had had a charter of rights. No one can deny that they were badly treated. It is at least arguable whether it would have made a particle of difference whether we had had a charter of rights or not. The Americans had a bill of rights at that time and they moved the Japanese just as unceremoniously away from the Pacific coast and inland as we did.

The rigors of wartime and the concerns about national safety are not likely to be mitigated and ignored simply because there is a charter of rights or a bill of rights. The essential protection for human rights is, as we all know, the belief by the broad group of citizens that the rights of the minority are their rights, and that they must be protected because who knows who is going to be the next minority.

Well, that brings us up really to the last three or four weeks. We had some last minute negotiations with the federal government, and there have been some press reports on those, indicating that they were prepared to make some changes in the referendum provisions, changes which, I regret very much, are not there; changes which, I regret very much, I could not agree with, not because I couldn’t agree with the changes but because of what went with them.

They offered us something further with respect to resource control, but they coupled that with a proposal that the status of the Senate be changed. The resolution now contains a provision respecting the Senate, or rather does not contain a provision with respect to the Senate which will have the effect of a very major change in the status of the Senate, having to do with constitutional reform.

There are those who say that because the Senate is not now included in the resolutions, we are maintaining the status quo. That is entirely wrong. Those, by the way, include some of the by-line writers on the pages of the *Leader-Post*, who are quite wrong. They simply are not appreciative of the legal aspects involved. Let me try to outline the situation.

Right now the amending formula of the constitution in Canada is effectively this: what will the British government accept in order to pass an amendment to the BNA Act? That, by and large, is the amending formula. It is a little inelegant but that's what it is.

I believe that if the House of Commons passed a resolution, and that 10 provincial legislatures passed a resolution and shipped it off to Westminster, the British would change the BNA Act like that, in a very short time, whether the Senate agreed or didn't agree. Because I believe that's the case (and I don't know who has ever disputed it), the Senate does not now have a veto in fact, or in law.

You will all know that in ordinary Canadian laws, the Senate has a veto. You can't pass an amendment to the Criminal Code of Canada without the Senate agreeing, because for ordinary Canadian laws, the Senate has a veto. But the British North America Act is not an ordinary Canadian law. It's a British law, and the Senate does not have a veto.

The effect of this resolution before the House of Commons and the Senate, if passed by the parliament at Westminster, will be to change the BNA Act from a British law to a Canadian law. By the very fact of changing it from a British law to a Canadian law you give the Senate an absolute veto — absolute, the same as they have in the Criminal Code. Now the Senate does not have a veto in fact or in law, and when it is over the Senate will have a veto both in fact and in law, and any court will enforce it. And that is a major change. It is a change which our government could not accept. I wish the Progressive Conservative members on the House of Commons and the Senate committee had raised strong objections to this change in the status of the Senate, but I regret they did not do so.

Leaving that matter aside, I am saying the proposals with respect to the Senate are unacceptable and they ought to be unacceptable to Canadians. No responsible proposal for change of the constitution made during the 1970s, that I am aware of did not contain a proposal to remove the Senate veto.

The Victoria Charter, of which I spoke, provided that amendments under it would have to have the consent of the House of Commons and the Senate, but if the Senate did not agree with what the House of Commons said, the House of Commons could pass it again in 90 days and that was it — a 90-day suspensory veto. During this process it was suggested that this be 180-day suspensive veto. We raised no object to that. If another 90 days is needed in order to explain this to the Canadian public, all right. But the suggestion that the Senate, of all people, should have an absolute veto, is surely repugnant to anybody's idea of democracy.

Let's see where we are with respect to this issue now. Suppose you are promoting a constitutional amendment and the House of Commons doesn't like it. You can change the House of Commons, or you can vote to change it. Suppose the legislature of any province of Canada rejects a constitutional amendment which has been passed by the House of Commons and some other provinces. There is now a proposal for a referendum. If the legislature of British Columbia or the legislature of Ontario does not agree with the constitutional amendment there can be a referendum. But if the Senate doesn't agree, there can be no referendum. You can get at legislatures by votes and referendums; you can get at the House of Commons by electoral votes; you can get at the Senate in no possible way, except the grim reaper.

That is the proposal which now stands in that resolution and that is the proposal which is unacceptable — unacceptable to the Government of Saskatchewan.

SOME HON. MEMBERS: — Hear, hear!

HON. MR. BLAKENEY: — Where are we now? Let me attempt to say where I think we are in Canada now. The process of which I have spoken is certainly one which is dividing Canadians. It is raising the level of bitterness in Canada. There is great potential for further bitterness. There is a prospect that there will, in the Parliament of Canada, be closure applied to terminate the debate prematurely. That will raise further bitterness. There is a prospect (I hope a small one, but I am not sure it is) that the federal government would forward to Westminster resolutions for action by the British parliament before the Supreme Court of Canada has dealt with the issues which are now in dispute. That would be clearly in violation of all principles and rules of law and would put the British parliament in an exceedingly difficult position — one which they ought not to be put in, one which Canada ought not to foist upon those who have accepted this job as the trustee of our constitution, not by their wish, but by ours. There are prospects, if the parliament at Westminster very properly decides not to deal with this matter until it has been through the courts in Canada, that comment would be made, objection would be raised and that abuse may even be hurled at the parliament of Westminster for doing the job we asked them to do. We've already heard suggestions that Canada might be considering withdrawing from the Commonwealth and other totally irresponsible suggestions simply because the British parliament was asking, and British parliamentarians are asking, questions which are entirely proper for them to ask. So I think the prospect for further division, is very much there.

We believe that in all these circumstances, the proper course of action is to make a last effort at getting a broad consensus and I want to say to hon. members opposite that I think this is our best hope — to make a last effort at a broad consensus. And I want to say that if the federal government takes the view that it can act unilaterally, that is no basis for broad consensus. Or if the other people take the view that all 11 governments must agree on all issues, that's no basis for a broad consensus because that's not going to happen. Therefore, we must be there looking for a basis which is not based upon unilateral action and is not based upon unanimity. That has been the position of the Government of Saskatchewan and continues to be the position of the Government of Saskatchewan. I invite anyone to look at all the public statements made by our government to see whether they're not only consistent with that position but virtually inconsistent with any other position.

We, therefore, as this House to adopt this motion. I want you, Mr. Speaker, to consider carefully what the motion says. It opposed the current attempt by the federal

government to patriate and amend the constitution of Canada and, surely, we can all agree with that. Believing that the unilateral nature of the process is incompatible with the fundamental principles of Canadian federalism (and surely we can all agree with that), that constitutional changes must have a broad basis of support among Canadians (you understand our position on that), and that the proposals, if implemented, would upset the balance of Canada's federal system (and I believe particularly the provisions with respect to the referendum have that potential, that very real potential!), we have put forward this motion because we believe that it represents something that everyone in this House can support. It represents a position which will be widely supported by people across Saskatchewan. It represents our opportunity to put a unanimous position on constitutional amendment before the authorities at Ottawa and before anyone else, be they at Westminster or elsewhere, to whom this resolution ought properly to be put. We believe that this is the best way to go. All of us could state in ringing prose our own position but that is to invite division in this House when we are looking for support on both sides of this House.

Therefore, I am moving, Mr. Speaker, the motion which I will read in a moment, which declares our objection to the process, declares our object to the contents and declares that the legislature of this province, and I believe the people of this province, object to the contents, object to the process and call for an effort to get a broad basis of support among Canadians for a constitutional amendment being patriated and an amending formula which can command the support of Canadians from coast to coast.

SOME HON. MEMBERS: — Hear, hear!

HON. MR. BLAKENEY: — Accordingly, Mr. Speaker, I move, seconded by the Hon. Mr. MacMurchy:

That this Assembly opposes the current attempt by the federal government to patriate and amend the constitution of Canada, believing that the unilateral nature of the process is incompatible with the fundamental principles of Canadian federalism, that constitutional changes must have a broad basis of support among Canadians, and that the proposals, if implemented, would upset the balance of Canada's federal system.

SOME HON. MEMBERS: — Hear, hear!

MR. LANE: — It is somewhat interesting, Mr. Speaker, that the Premier has urged one last kick at the cat, one more call to the negotiating table. Yet it has been obvious since last September that the Premier is either stalling for time or completely misreading or underestimating the federal government position, because it is quite clear in the strategy paper leaked on the first ministers' conference that once unilateral patriation is commenced by the Government of Canada, and once the step is taken, there is no turning back and it must be proceeded with to its logical conclusion. It is stated right in the strategy paper. I think that takes away dramatically from the tenor and intent of the motion.

It is interesting to note, Mr. Speaker, as an aside that when the Premier wanted his motion today he dropped item one. In that particular motion, the phrase:

That the legislature endorse the efforts being made by the Government of Saskatchewan to secure changes in the federal resolution to make it more broadly acceptable

has been very pointedly dropped from the motion. I think it indicates that not only do the people of Saskatchewan not support the efforts being made by the government opposite, but I suggest the people of Saskatchewan are deeply and gravely concerned by the actions of the government opposite, by its refusal for some considerable period of time (and if the remarks of the Attorney General on the weekend are any indication for some future time), to take all actions necessary to oppose the unilateral patriation of the constitution.

Every once in a while we get a statement on our desks, but somewhere there is a statement which came today to the members regarding .-.-. (inaudible interjection) .-.-. I am going to suggest that hon. members should read what is put on their desks, because I have had the opportunity to do it when I was listening to the Premier's remarks. I think it may in fact sum up what the people of Saskatchewan feel about the position of the government opposite. I am quoting from a speech which we all received from Mr. Panabaker, president, chief executive officer, Mutual Life Assurance. He opens his statement on the constitution by saying:

Near the end of the musical *My Fair Lady*, Elizabeth Doolittle, frustrated beyond endurance by the actions and attitudes of other characters, says vehemently: 'Word, words, words. I'm sick of words. I've had words all day through. First from him and now from you. Is that all your blighters can do?'

And I think that sums up the constitutional position of the government opposite. that it's been words, words, words, and no action. There's little doubt that the position of the government opposite with regard to the constitution and its debate has been a matter of much concern to the people of Saskatchewan.

Sitting on the fence is not Saskatchewan's nature. It is also not the nature of Saskatchewan to have its political leaders refuse to take strong and dynamic stands. The break with tradition continues in that it has always been Saskatchewan's tradition to have strong, vocal leaders strongly argue Saskatchewan's position at constitutional councils and Saskatchewan has always had a tradition of strong and vocal headers fighting for Saskatchewan's interests against those of central Canada and a centrally oriented federal government. This tradition included Jimmy Gardiner and Tommy Douglas and Ross Thatcher, but obviously the tradition has come to an end.

Why is this failure of leadership so tragic? Because western Canadians have to fight. We are faced today with an intrusion into the ownership, management and control of our resources and we are facing a massive effort by the federal government to stop development in western Canada at the very time when we are on the verge of attaining new economic power and political maturity.

With regard to our resources, it is interesting to note that Ontario and Quebec (and I'm just going to give a short history lesson; the Premier gave a very lengthy one) had full control and ownership of their resources since confederation. However, with regard to the western provinces (and I think, in fairness, if one integrates into the argument offshore resources, the maritime provinces), we haven't had that control. We have had to fight to try to get ownership of our resources. Manitoba has been in confederation for approximately 111 years and has had ownership and control of its resources for only the last 51 years. While Saskatchewan and Alberta have been in confederation now for approximately 75 years, they have had full ownership and control of their

resources for only 51 years. In other words, western Canadians have not been recognized as equals and have not had equal rights and powers from the time they entered confederation.

I need not rehash to any great length the eastern Canadian bias which exists in Canadian politics — a bias which we must overcome in western Canada by fighting harder and more vocally than others. We in western Canada have chosen, I think rightly, to reject the national government of Canada and, without access to the councils of power, it is incumbent upon our provincial leaders to take an even stronger stand and to argue more strongly than perhaps would normally be the case.

It is trite to say that the populous areas have the power and western Canada does not yet have the political power to wrest that power from central Canada. But where is Saskatchewan in this battle for economic and political power? The Attorney General and the Premier both have stated that Saskatchewan must take the middle road. The Premier made it quite clear in the Saskatchewan perspective that he endorsed the middle road. The Attorney General, time and time again, said Saskatchewan must take the middle road. The Attorney General on releases as late as August stated that Saskatchewan should take the middle road. I'm not sure that's a correct position.

Let's look at some of the actions. The Government of Saskatchewan proposed a national energy plan and, as a consequence of that proposal, has lost credibility across Canada when it attempts to fight the Trudeau-imposed national energy plan. The Government of Saskatchewan proposes a national energy bank to give up control of half our resources, and thus loses credibility when it attempts to oppose federal government take over of our resources. The middle of the road is not the answer.

We stated our constitutional position in this Assembly last spring. We believed then that there was one course of action for Saskatchewan, and we have not changed our position today. I suggest ours is the only party in this legislature that can say it has been consistent since it stated its constitutional position. We have no choice in western Canada but to have that unity of spirit with other western Canadian provinces. We suggested last spring that the proper course of action was for the Government of Saskatchewan to support the other western provinces, to get together with the western provinces, to do our negotiating with the premiers of Alberta, Manitoba, and British Columbia, and to come to a consensus or a common position that we can support in what I believe to be the inevitable confrontation with Pierre Elliott Trudeau. I say inevitable because that has been his forte and his course of action since he became Prime Minister, that is to say confrontation and not conciliation.

The fight that we urge and have been urging can take two forms: action and words. Saskatchewan is now attempting to use words not anywhere near the strength and stridency of former leaders and former governments in this province, yet with equivocation, which has not been the practice in Saskatchewan history. The word, we believe, which should have been used was no from the start. We may be prepared to negotiate but our position is no to unilateral patriation, no to the charter of rights, and no to the unilateral actions of Pierre Trudeau, not taking the position that we'll talk about it, that we'll sit down and try to renegotiate. It's interesting that the middle of the road position was again reaffirmed by the Premier today. There were confusion and contradictions in the position of the government opposite. First of all we tried, and I think members opposite can remember, to find out last fall whether or not the Premier was going to appear before the constitution committee. "Decision hasn't been made; decision hasn't been made; decision hasn't been made." We asked when they were

going to appear before the constitutional committee when finally a decision was made. “Well, we’re not sure, we’re not sure, and we’re not sure.” Finally when the Premier was out we asked the Deputy Premier, “When are you going?” He made the tactical error opposite or broke with the common front and gave a date and came back, much to the surprise of the Premier, “Oh, I guess now we’re going.” I told him we were going. He didn’t even know when, or if, you were going before the joint Commons-Senate committee.

His appearance before that committee was, in my view, an attitude of defeatism. “You are going to proceed, Pierre Elliott Trudeau, therefore we have to try to make the best of a bad situation and we propose the following alternative,” or, “We don’t particularly like that but if you are going ahead, keep this in mind.” This was notwithstanding that the Premier and the government opposite were faced with one of the most damning documents — the federal government strategy position, precisely what the Government of Canada was going to do.

I suggest, notwithstanding the answer today during question period, confusion as to the government opposite’s position. The Attorney General wants the Premier to get back on the fence and withdraw his objection; the Premier says that they may be considering now the matter before the supreme court, but he is very imprecise and uncertain. That confusion and indecision is the talk of the eastern Canadian press and I think that all members of this Assembly are well aware of that reaction. words were uttered, but not strong words, and not decisive words. What action could the Government of Saskatchewan have taken? It could have joined the other six provinces in the court challenge to unilateral patriation of the constitution. The Premier has attempted to give a defence this afternoon as to why he didn’t. That defence contradicts what he said on October 14. He said, and I am quoting from the fourth paragraph of the statement by the Hon. Allan Blakeney, October 14:

Such unilateral action is inconsistent with Canada’s traditions and with the fundamental principles of a federal state. It may also be a breach of Canada’s constitutional law, a question which will not doubt be tested in the courts.

I think I said that rather accurately. I think that indicates most clearly, Mr. Premier, that you had doubts as to the constitutional validity of the unilateral action. If you had those doubts, the action to take against the federal government was the action of joining the court action. It is interesting that through this time the Government of Canada was led to believe that it had an ally or a potential ally from western Canada. I would like, if I may, to quote from the federal strategy paper indicating just how important it was for the federal government to have a symbol of a lack of western unity. On page 41 it says:

Given the government’s lack of representation, it would probably be more difficult to defend unilateral action on such a regionally sensitive issue as resources than it would be to withstand a ferocious attack by the Government of Quebec over the entrenchment of minority language education rights given the federal government’s strong representation from Quebec.

Breaking up a solid western provinces block of opposition is a prerequisite to our being in a position to take action on package 3 rather than package 3(a). Saskatchewan may prove to be the key. The argument has been put to the provinces that they would do well to make a deal on resources now because the chance to do so in the future may not come around for a long time in

which case they will have to live with the status quo because they wanted too much.

The federal government itself in September and in August knew the importance of a divided West and they knew the importance of a western Canada that wasn't talking with one position. They knew how important it was to their cause to be able to have in particular the key, Saskatchewan, sitting on the fence at least, and preferably in support. They knew how important it was for Saskatchewan to be isolated, separated from the other western provinces.

I would be frankly surprised if the Government of Saskatchewan didn't have that position paper and the strategy paper. Let me indicate again how afraid they were of a unified western position. I am not quoting from page 36:

Given that unilateral action will be undertaken in the face of widespread provincial government and parliamentary opposition, it will be important to ensure that the particular package is popular among the citizens of all regions of the country. A solid front of provincial government and parliamentary government opposition from the West could pose real difficulties for the Government of Canada.

Real difficulties. You could have stopped Trudeau's action by opposing this action from the outset. You could have stopped the divisive position being taken by the Government of Canada if you had opposed and stayed firm with the other western provinces. the most symbolic action you could have taken at the time of the unilateral patriation move, to show your opposition, was joining the court action. You could have done it.

Such action would have been a strong symbol both of concern and of opposition, a symbol to all Canadians the one major region of Canada was strongly opposed to the constitutional position and proposals of Pierre Elliott Trudeau. More than a symbol, Mr. Deputy Speaker, it would have been strong proof that western Canada was opposed to the unilateral patriation of the constitution and much of the constitutional package. But Saskatchewan's position, as stated by the Premier opposite and the government opposite and the Deputy Premier, was evidence to Trudeau that western Canada was divided, that Trudeau in fact had an ally in western Canada, that Saskatchewan was prepared to go along with him if the price was right. The Government of Saskatchewan's position made it clear to Trudeau that he could proceed because the West was in fact divided. Saskatchewan walked into Trudeau's trap notwithstanding that his position had been made clear in the strategy paper.

Would a court action have stopped negotiations. Of course not. Would the challenge have prevented further discussions? Of course not. The Premier knows full well that in any court case negotiations can proceed while the matter is proceedings to court, and negotiations can proceed even after an appeal process if an appeal is being proceeded with.

Here's the tragedy for Saskatchewan people. Your actions, and the government's position, and the Premier's statements, left a very distinct and clear impression in eastern Canada and in Ottawa, that you would support Trudeau's position. The Leader of New Democratic Party. Ed Broadbent, said Allan Blakeney would have no trouble supporting the constitutional package. I could quote that. After the release of the

package Ed Broadbent said, and I'm quoting from the *Leader-Post* of October 22:

I haven't the slightest doubt that Mr. Blakeney would be pleased.

Was that ever refuted? No. It was never refuted. So the impression was reinforced again that Allan Blakeney and the Government of Saskatchewan would come around.

Saskatchewan's position, as I have indicated earlier, also was filled with inconsistencies. First it was going to appear and then not appear. Then no dates were set. We have the confusion today, as I have stated earlier, over whether or not there should be a court challenge, whether or not the Premier decides to go to London. The Attorney General say in Calgary that the Premier should go to London. So we still don't know what the government opposite is prepared to do.

I think it very significant that the Premier did not oppose the constitutional package when it was introduced, and now decides to oppose the package even though the NDP has said there has been significant improvement which it's taking credit for. If the new improved package was worthy of support, or was worthy of opposition, why did you not oppose the original package? That's a very inconsistent position. The new improved one is worthy of opposition but not the first one — a very strange inconsistent position to take. Why is the court action so important? I say it is important in fact, and I also say symbolically, because Saskatchewan has been involved in every court action on the constitution since 1961. Failure to join in this one certainly leaves the impression that the matter was not important enough, or Saskatchewan was not going to use all of its efforts to oppose the package and was prepared at least to remain neutral.

In addition to losing a court challenge on potash and oil in the past in the Supreme Court of Canada, the Premier opposite said the supreme court was biased. He then proceeded to use the fact that the Saskatchewan Court of Appeal had found in favor of the provincial government's position. Surely you could do the same today.

In all your political defences of your actions taken on potash and oil, you used the fact that you had the support of the Saskatchewan court. Why today are you afraid to appear before that very court or the Saskatchewan courts? You've used them as a defence in the past. I can quote from the Premier on November 23, 1977, when he began to play the numbers game on the number of judges. He's referring to the supreme court decision on Bill No. 42, stating again what he believed, even though the supreme court overruled him:

We believe our position to be constitutionally sound. So indeed did the Court of Queen's Bench in Saskatchewan believe it to be constitutionally sound. So indeed did the court of appeal in Saskatchewan, to whom you would have us refer the things, believe it to be constitutionally sound.

Five judges for and no judges against. It has now gone to the supreme court and seven judges apparently have found against it, and two for it.

In fact the Premier said eight superior court judges have held that the law was constitutional and seven superior court judges have found that the law was unconstitutional. He used the numbers game in the past — why not today? Would it not be better to get a decision from the Saskatchewan Court of Appeal and begin to follow the process that you've used in the past? The failure of the government opposite to use even its past practices indicates that it is not prepared to use its best efforts and its

strongest efforts to fight and oppose Trudeau's constitutional package.

The Saskatchewan Court of Appeal, in addition, is one of the most experienced courts in Canada in constitutional matters. Its effort would be a speedy course of action to obtain a hearing by the courts. Again, a significant weapon is not being used in the constitutional fight.

Why not an appearance before members of the British parliament by the Premier of Saskatchewan and the Leader of the Progressive Conservative Party? We do not include the leader or spokesman of the Liberal party because it has publicly stated its endorsement of the constitutional position. Frankly, based on the actions and the evidence to date, we don't believe that you would argue in the strongest terms before the British members of parliament. It would be necessary for a representative of the official opposition to appear and make it clear that a significant percentage of the people of Saskatchewan have, in fact, opposed that package from the outset and that this opposition is not a recent phenomenon. The representative of the official opposition would be able to make sure that full efforts are being made to convince members of the British parliament that the people of Saskatchewan oppose the unilateral patriation of the constitution.

The Premier of Saskatchewan could make it clear to the people of Saskatchewan would not be bound by constitutional proposals which take away their rights and powers and privileges unless the people of Saskatchewan agree to such changes. The Premier could take action as a first step within his own party.

It is very interesting to note that in September the national leader of the New Democratic Party stated that Allan Blakeney would have no difficulty supporting the constitutional package. All Saskatchewan NDP members of parliament supported that package and voted in favor of the resolution endorsing the package — every single one of them voted in favor. But in February, only because of the political heat in Saskatchewan, the Premier then, exercising this influence as leader of the Saskatchewan New Democratic Party, proceeded to put pressure on Saskatchewan NDP members of parliament. It's very, very interesting to speculate whether Trudeau would, in fact, have proceeded in the manner he did, if the New Democratic members had not indicated their support at the outset and if the New Democratic Party had been at least divided in its support. But the Premier took no action in September and October. He refused to take action. He could have done it because he did it in February.

Throughout this whole debate, since the federal position was set out and laid out, it is obvious that the Premier of Saskatchewan has not taken courses of action which would indicate opposition. There is little doubt that he has left the impression in central Canada that he could support the package with some amendment and it was only a matter of determining price. The real danger is that Allan Blakeney may well have the single and sole responsibility for Trudeau's actions because, firstly, he has held himself out as the great negotiator and the great conciliator and this image has been fostered by members opposite. I recall speeches by the member for Regina North-East; I see the member for Shellbrook endorsed that .-. (inaudible interjection) .-. Oh, you're not there yet, Mr. Minister. You've got a long way to go out there before you're the member for Shellbrook-Torch River.

But let me say this image fostered and even the political apologia of John Twigg and whoever is writing for the *Financial Post* these days, even they reinforced the impression that Allan Blakeney was a man of stature and a great conciliator and a great

negotiator. If he had that stature, then the obligation was twice as great on him to take a stand, and the failure of a man of that stature to take action again reinforces the impression in eastern Canada that he would support the package and that Trudeau had an ally. He can't have it both ways.

The Premier has made it clear that Pierre Elliott Trudeau could proceed with the national energy package, for example, because it was the Premier opposite, over the objection of most, if not all premiers, who was proposing a national energy package. He has certainly given the impression to Trudeau that a national energy package would be well in order and would be supported in Saskatchewan. You cannot say that he is a man of political influence when he refused and fails to use that influence. In addition, there was the deliberate attack that went on from government members opposite and I'm assuming that, at least by silence, the Premier was endorsing the attempts by government members and cabinet ministers. I think the former minister of highways was the prime example, saying that our neighboring province's premier, Premier Lougheed, was in fact a separatist. The members to my far left were simply the advance guard for the separatist Lougheed. So while you are taking a neutral position in eastern Canada on the constitution, you were actively encouraging a position designed to embarrass the Alberta leaders — obviously not a position of western unity, and obviously not a position of western opposition to the constitutional position.

There is no doubt that the eastern press for once was right when they said the loser in the constitutional debate was the Premier of Saskatchewan. He lost respect throughout Canada, going so far as to have been called the constitutional Nero, obviously fiddling while the country burns. His judgment has been seriously doubted and it's not just a tragedy of the party opposite, it's Saskatchewan's tragedy, and for that we all suffer a great deal or have a great deal of regret. Saskatchewan and western Canada are under attack as they never have been, for which the Premier and the government opposite must take a significant share of the responsibility. We've said again and again that the West must stick together and the West must work together. No single province is able to stand up to a tyrannical federal government, and if we need evidence of that, the Quebec referendum is the most recent example. It was folly for the government opposite to take the position that it could deal with the federal government as an equal political power, especially in light of the stated position of the federal government that the West could be divided and that Saskatchewan was the obvious ally.

Mr. Speaker, the opposition will be presenting amendments setting out the specific action that can be taken. The resolution is obviously of little practical value. We will be supporting it, but we want to make it clear as well that we will be proposing a course of action which I feel the members opposite can endorse, so that not only do we just have words, we have actions, because action is long overdue. The amendments will be introduced by future speakers. The reason is that some of us may want to get back into the debate once we find out whether or not the Deputy Premier now supports the Premier, or the Premier supports the Deputy Premier. And we want to hear what the Deputy Premier's position is on the constitutional debate because they've been going at odds and making conflicting statements. Perhaps once the cabinet have all given their own opinions, we may finally be able to distill the position of the Government of Saskatchewan.

Mr. Speaker, it is with, I think, a great deal of regret that the people of Saskatchewan are today angry and frustrated and upset with the position of the government opposite or lack thereof. It is surprising when we have a tactical paper which laid out in

unbelievable detail what the federal government was going to do, that the government opposite would go along with it.

Mr. Speaker, it has been a tragedy for Saskatchewan, and it has been a tragedy for western Canada. We have one choice, one option, and that is to begin to take some action — the action I have outlined. The immediate step, Mr. Speaker, is a constitutional reference under the constitutional references act of this province to the court of appeal. Saskatchewan has to do it alone; because it is so far behind the other provinces, it should begin to make up for lost ground and should begin immediately.

I would hope that the members opposite will come forward with some justification for the lack of action. I would hope that the defence they give is far better than the one attempted this afternoon, Mr. Speaker. I wait with a great deal of interest to see if the Government of Saskatchewan is finally prepared to take some action on Trudeau's unilateral patriation.

SOME HON. MEMBERS: — Hear, hear!

HON. MR. HAMMERSMITH: — Mr. Speaker, I find it particularly interesting that the member for Qu'Appelle should be standing in this House and talking about any alleged inconsistencies on anybody's part. He should be talking today about the need to fight and the need for action. It is particularly ironic that that member should be accusing this government, of all governments, and the leader of this government, of all leaders, of being soft on resource companies.

I recall the kind of credibility that this government has built in its defence of the people of Saskatchewan, credibility built in fights with the oil companies (oil companies supported by the members opposite), fights with the potash companies, fights in the courts over Saskatchewan resources and the right of Saskatchewan people to control those resources, fights in the supreme court for the rights of Saskatchewan people — all fights against the advice of the member for Qu'Appelle; that member who, in previous incarnations, cast himself very clearly on the side of the multinational corporations and in opposition to the people of Saskatchewan; that member who, in debate on Bill 42, said that we are destroying the principle of equalization upon which this nation was built, and what we should do is share more with the people of Ontario. He now stands in his place and says that we are soft on resources and that we're soft on eastern Canada.

AN HON. MEMBER: — Was it a Liberal or a Conservative?

HON. MR. HAMMERSMITH: — It's hard to tell the difference. In B.C. they call them all Social Credits, but they're all the same thing. It makes little difference. That same member who in 1971 was a Liberal and in 1975 was a Liberal, and in 1978 was a Conservative, who marched up and down this province suggesting that we should get along better with the oil companies and get along better with the federal government and we should compromise and we should sell out the birthright of the people of Saskatchewan, now stands and would cast himself as a fighter on their behalf. I say that he has had opportunity to demonstrate that. He has not, in past, demonstrated any credibility in terms of his willingness to fight for the rights of the people of Saskatchewan, but now with the introduction of this resolution and the opportunity to support it, he can establish credibility for himself and his party and I look forward to seeing whether he does that.

I want to congratulate our Premier and our Minister of Intergovernmental Affairs on having taken the position across this country, a position that is clearly understood by most people in this country — other than those who sit opposite — a position of exemplary responsibility and leadership. We had an example again today of the responsible and continuing search in this House and beyond for a broad basis of support and consensus as to what this nation is about.

Mr. Speaker, our Premier has been recognized across this country as one of the key participants in this process. We had an example today of why this is so, because we had an example of those people who can only react to and follow events and those people who lead events in this country.

We have chosen, and I think rightly so, to reject the extremes — to reject on one hand the blind acceptance of the Trudeau position, as was the case with the Conservative governments of Ontario and New Brunswick. It is interesting that members opposite feel that Bill Davis has no responsibility to this country. And we rejected on the other hand the option of taking our bat and ball and going home — the option of doing as the Levesque-Lougheed gang of six have done opposing for oppositions' sake.

We said that neither approach was responsible and that the last possible mile had to be walked in negotiation. We said we would negotiate for change, even though we opposed the process. We said that we would not throw down the gauntlet immediately. We would not oppose unless it was clear that the federal government would continue to refuse to accommodate the needs and wishes of all Canadians. We said that negotiation and compromise, searching for the middle ground, was the Canadian way, and that it was in the tradition of a federal state like Canada.

Mr. Speaker, we said from the outset that we neither underestimated nor, as in the case of the member for Qu'Appelle, overestimate the will and the ability of the federal government and the Prime Minister to control irrevocably events in this or in any other matter. The member for Qu'Appelle appears to resign himself to the inevitability of events being controlled by Pierre Trudeau. We reject that.

I want to say, Mr. Speaker, that particularly as a representative for the Prince Albert area, I am proud to serve part of an electorate which has elected three Canadian prime ministers. All of those great Canadian had a vision of this nation, united and strong, and at the same time they recognized the diversity of its regions — a diversity which they believed added to, not diminished the character of its people. But they also understood that if the regions are to work together, it would have to be through compromise, through negotiation, in an attempt to understand the needs and aspirations and cultures of all the people and all the citizens that are part of the fabric of this great country. They viewed those approaches as fundamental principles underlying the foundation of this nation.

The resolution we are debating today is a statement to the rest of Canada that this province still believes in those fundamental principles. I am convinced that all of the prime ministers elected by the people of Prince Albert would be proud to see the stand taken by their current member of parliament, Stan Hovdebo.

It was not an easy decision — not the kind of decision based on short-term political gain. It was a difficult position that he and three other Saskatchewan New Democrat members of parliament took. It was not an easy decision for them or for many of us who see ourselves as part of this entire nation, and not caught on one extreme or the other of how this nation is defined and how it has defined itself. During the past year, the

Premier and the Minister of Intergovernmental Affairs have been key figures in an attempt to reach a consensus which would result in a new constitution for Canada, which would recognize the changes that have taken place in the past 114 years — a constitution which would enjoy a broad basis of support among the majority of Canadians.

I believe the majority of Canadians want our constitution patriated. I believe that all Canadians want a new, “made in Canada” constitution and we all want a framework which will take into account the uniqueness of each region and at the same time enhance the things we share as a nation. No other government has tried, to the extent that Saskatchewan has, to make that constitution a reality. We have tried to reset goals both in process and in content. We have negotiated and we have searched for common ground. We have tried to find that consensus whereby all Canadians, from whatever region, could feel part of one great nation. It is with a deep sense of sorrow and of regret as Canadians that we realize this attempt has ended in failure. It is a disappointment that I know is shared not only by the people of this province, but by people all across Canada who had hoped that the broad consensus would develop.

Why did this process fail? I have heard it say by a few that Saskatchewan never really wanted an agreement — that we were bargaining in bad faith. Others have attempted in a very inadequate way to make the case that we were sitting on the fence. Nothing could be further from the truth, Mr. Speaker. When the current Prime Minister rejected the negotiating process last October and decided to take unilateral action, he not only proposed to patriate but also to arbitrarily amend the constitution of this country. He has maintained this stance knowing full well that an overwhelming majority of Canadian are opposed to this action. And what does he say is the justification for taking this extreme position? He says that for 50 years we have been able to achieve unanimous agreement from the federal government and all the provinces for a new constitution; that’s true. He said nothing of the items that have been around for less than 50 days. I ask is unanimity in a country as diverse as Canada a reasonable goal? Is it a desirable goal? Does it serve any purpose? I think not. In fact, unanimity in Canada is almost impossible. Still by September of last year the provinces and the federal government were closer than they had ever been before to an agreement on a limited package. However, that wasn’t good enough for Ottawa. Trudeau had set a date as an artificial deadline for complete agreement. And I ask who was negotiating in bad faith?

Could the federal government possibly have been sincere in its efforts to reach a consensus when they were prepared to act unilaterally if that total agreement could not be reached? I think not. By moving unilaterally at that point, the Prime Minister demonstrated all too clearly how he felt about negotiating an agreement. Mr. Trudeau says changes are needed now to fulfil promises made during the Quebec referendum campaign. Why is it, then, that all political parties in Quebec are opposed to unilateral action? Moreover, the present package fails to satisfy many of Quebec’s traditional demands. Still the Prime Minister proceeds. In attempting to define the national interest of this nation by himself, he is contributing to a crisis which will divide the nation more than it has ever been divided before. The writing of a new constitution should unite a nation and its people. And a constitution must draw its support from the public and from a broad consensus of those people which it serves. Present actions of the federal government are resulting in the opposite. Obviously Trudeau’s stated reasons for acting unilaterally are a facade. What his real reasons are, I don’t know, but that his actions are creating a mood of distrust in the country is clear for all. Today there are six provinces which are taking Ottawa to court. Western alienation and the western separatist movement is growing. We reject both those extremes.

We reject the extreme on the one hand that says this federation, this nation, is whatever the central government say it is, and we reject also the other extreme, that says this nation is whatever the 10 provinces say it is. This nation is founded and maintained on seeking, identifying and insisting upon a delicate balance between those two. Both extremes threaten that balance. Both are divisive. Neither honors the true spirit and intent of confederation. How long will it be now before the bitterness and suspicion will fade so that the main issues of constitutional change can be discussed in a spirit of good will and co-operation a gain? And all this time our country's social and economic problems worsen while Trudeau moves stubbornly ahead, oblivious to the discontent he is creating.

Mr. Speaker, in addition to insisting on an unacceptable process, there are many things in the content of the current package which are also unacceptable. I limit my own remarks today to two of them, two in particular which I find objectionable, and they are related to each other. The Premier outlined very clearly all of the parts of the package we object to. I think that anyone in a democratic society, anyone particularly in a federation such as ours, rejects the whole idea of amendment by referendum. And when is added to that the proposed powers of the Senate to be able to override the wishes of elected governments, I think that Canadians, as they come to consider and come to understand what is proposed, will reject that overwhelmingly. Here we have an institution that is made up predominantly of Liberal party hacks, an institution whose main reason for existing is to conduct campaigns and to raise funds for the Liberal Party of Canada, and we propose to give to that institution greater powers than we propose for the elected governments of this land.

I want to refer briefly, Mr. Speaker, to the manner in which Saskatchewan particularly and the nature of this province is ignored in the resolution currently before parliament. We are a province in which the majority of citizens have a mother tongue that is neither of the official languages. We are a province with a multicultural nature that reflects the Canadian mosaic best, I think of all provinces in Canada. I come from an area where people can go shopping, read, visit each other, attend church, participate in Canada's official languages, and I say, Mr. Speaker, that they are no less Canadian than the citizens of central Canada! I am proud on their behalf that we articulate a position that rests on the fact that not only is the process and the package bad for Saskatchewan and bad for western Canada, it is bad for Canada, the majority of Canadians and the future of this country.

It is a position that is not based on narrow, short term, partisan political interests. It is a position that is based on a broader vision of the country, and on a vision of the country that rejects the extremes of Bill Davis on one hand, and Peter Lougheed on the other. We reject both those extremes. We have a different vision of this country and we say that this country needs a constitution that should be a broadly supported constructive step forward, for all the people of the nation. What we are faced with, from Bill Davis on the one hand and Peter Lougheed on the other, are both potentially and continuingly divisive.

One of the aspects of the current resolution before parliament which we must consider is that it will lead to a Canada fundamentally different from the one which we know today. What I find most objectionable, Mr. Speaker, is a Canada defined basically, at this juncture, by one person who wants to get it all over with so he can retire. In the past

114 years we have built a great nation which not only recognized, but attempted to balance both national and regional interests. In a nation such as ours, that is the only kind of governing system which has the potential to meet the needs of all. The unilateral action of the federal government is threatening that balance. It threatens to destroy a relationship between regions which our forefathers nurtured through decades of hardship.

I cannot sit silently by and see this happen without voicing my objections in the strongest possible terms, and I call again on members opposite to show they mean what they say when they say they are finally willing to speak out in the interests of the people of Saskatchewan rather than those interests which they have always supported. I call upon them to join with all other members of this Assembly and vote in favor of the resolution opposing the federal action.

SOME HON. MEMBERS: — Hear, hear!

MR. BERNTSON: — Mr. Speaker, perhaps the member who just sat down wasn't listening when the member for Qu'Appelle indicated that the opposition would, in fact, be supporting the resolution. However, that was the first time that particular statement had been made by anyone from this caucus and so it was with a rather mixed emotion that I looked at the *Leader-Post* this morning and saw the headline: "Berntson says PCs will back resolution." I don't know what they're smoking down there, whether they are suffering from some sort of hallucination or whether they are just dreaming. Up until about one hour ago, the very best it could have been was a guess. That is the down side; the up side, of course, is that it's the first time I've ever been on the front page of the *Leader-Post* and secondly, it's the first time they've ever spelled my name right. I appreciate that.

As it relates to the resolution that the Premier brought before the House today with our consent — as a matter of fact it was at our urging, but there was a distinct lack of negotiations of what the Attorney General called meaningful input. The input was "Here, take a look at it, take it or leave it." Well, we're not going to take it. We're going to be offering some amendments. The reason we're going to be offering those amendments is that the resolution has no guts.

That this Assembly oppose the current attempt by the federal government to patriate and amend the constitution of Canada believing that the unilateral nature of the process is incompatible with the fundamental principles of Canadian federalism.

And that's wonderful.

The constitutional changes must have a broad basis of support among Canadians. They must have a broad basis of support among Saskatchewan as well, And the proposal, if implemented would upset the balance of Canada's federal system. And it's gutless and it's toothless. Naturally, we'll oppose the federal unilateral action but we want to more than oppose, we want to fight it. Initiate an action, get the thing into court.

The constitutional resolution before the House of Commons today affects the status, the rights and the privileges of every Saskatchewanite. That does not have the support of the Saskatchewan people and the Premier comes in and says: "Well, we'll oppose it. We'll just write a nice little letter to Pierre and I'm sure he'll listen. We'll oppose it."

Our Premier doesn't seem to understand that Trudeau isn't looking for unanimity, consensus, broad support, or even a simple majority. What he's looking for is obedience and subservience.

Mr. Speaker, I have with my research department over the last weekend, spent some considerable time putting some very, very meaningful notes together that I'm sure all people will want to hear uninterrupted. In active negotiations and discussions in a very positive way with the Acting House Leader, we've agreed that that's just what will happen so I therefore beg leave to adjourn debate.

Debate adjourned.

The Assembly adjourned at 4:50 p.m.

CORRIGENDUM

The following errors appeared in the 1979-80 *Hansard Index*:

On page 87 under the entry “Motions” it should read “*see also* Resolutions.”

On page 154 the Unionest Party of Saskatchewan was incorrectly spelled “Unionist.”