LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
December 9, 1981

The Assembly met at 2 p.m.

Prayers.

ROUTINE PROCEEDINGS

INTRODUCTION OF GUESTS

MR. NELSON: — Mr. Speaker, through you I would like to ask all members to welcome 47 senior citizens from the Yorkton New Horizons Senior Citizens' Club. They are accompanied by Mr. John Sawka, their president, and by the bus driver, Mr. Brad Westerhaug. My good wife and I have very often enjoyed their hospitality in their centre in Yorkton and I am very pleased that I can act as host for them here today.

I might say that this group represents the typical spirit of the senior citizens of our province, of the people who built our province. This group, as an example, bought and renovated a hall on their own and have made it into one of the finest drop-in centres in the province. I can tell you that they made sure every avenue of assistance from government that was open to them was used. I am very pleased that our government has been able to work with these people to see that their centre operates at full bore. But our assistance is only minor. They do the main thing on their own and they're very proud of it. I hope that all of you will join with me today in wishing them an interesting and informative stay in the legislature and a safe journey home.

HON. MEMBERS: Hear, hear!

MR. KOWALCHUK: — Mr. Speaker, through you to the member of this House, I, too, would like to welcome the people from the Yorkton district. The senior citizens have contributed so much to the history of Saskatchewan, which we have celebrated over the last couple of years. I think it bodes well for the province when these people take the time to come here to visit this legislature where the business affairs of the Saskatchewan government and the people of Saskatchewan are done.

Knowing very many of these people, I welcome them to this House and I'm sure all other members of this House welcome them as well.

HON. MEMBERS: Hear, hear!

QUESTIONS

Protection for Home-owners

MR. ANDREW: — Question to the Attorney General in the absence of the Premier. Mr. Attorney General, given the fact that your government has what seems to be endless sums of money to promote your views of state capitalism and other government programs, I wonder if you today would advise this Assembly that you would be prepared to drop your new bill, The Home-owners' Protection Act, or whatever it is called, which is very little more than window dressing and legal loopholes for legal trickery, and take some money from your heritage fund and inject in into the home-owners mortgage plans for the people of Saskatchewan — take it from what is called

the heritage fund, but perhaps better know as Blakeney's bank.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — Mr. Speaker, I note that the hon. member for Kindersley is urging that the government drop the bill. Presumably he is articulating the Conservative position on this bill, namely that it be dropped and not proceeded with. He says that the bill is window dressing; that the bill is pure, simple, legal trickery; that we ought not to be moving on this bill. The Conservative proposal is, Mr. Speaker, that we inject money from the heritage fund with respect to this particular issue that is before Canadians and the Saskatchewan public today.

Mr. Speaker, to do that in effect means injecting money directly to the banks of this country and this province — banks whose interest rates have gone from 10 to 18 and 19 per cent. It is interesting to note that the Conservatives here, while saying that they plead the cause of the home-owners, in reality are pleading the causes of the chartered banks of this country.

SOME HON. MEMBERS: Hear, hear!

MR. ANDREW: — The Attorney General might note the number of mortgages held by banks and the number of mortgages held by credit unions. The direction that the NDP is going is not in fact to deal with the questions of high profits of the banks. Is your bill, Mr. Attorney General, not having the reverse process, and in fact addressing all the money coming not from the banks, but from the credit unions? Those are the people who are going to pick up the costs of your bill, not the heritage fund — the credit unions, the people of Saskatchewan

MR. SPEAKER: — Order, order! I think the members will clearly agree with me that the member when he asked his question was, in fact, inviting debate. When the Attorney General responded he debated it. The member for Kindersley is again debating the issue. There will be plenty of opportunity. I'm sure the House Leader will bring the bill forward soon, and the members will get the chance to debate the bill. Now they can ask questions.

MR. ANDREW: — My question to the Attorney General is precisely this: given the fact that there are twice as many mortgages held by credit unions in the province of Saskatchewan as by banks, is the impact of this legislation not therefore going to be twice as seriously affecting the credit unions as it is the banks?

HON. MR. ROMANOW: — Mr. Speaker, according to the best information that we can obtain, the approximate percentage of mortgages which are carried by the credit unions of this province is in the neighbourhood of 25 per cent to 30 per cent. The remaining percentage, in the neighbourhood of 70 per cent to 75 per cent, is the responsibility of the chartered banks. In any event, Mr. Speaker, if I'm in error there, the bill has adequate provision with respect to section 26 (if my memory serves me correctly) to deal with the exemptions of certain classes of creditors or debtors if undue hardships are going to take place.

I don't need to receive a lecture from the hon. Conservative members opposite about the need to protect the credit unions because the Conservatives in this province have fought the credit unions tooth and nail. We are going to make sure that the people of Saskatchewan and the credit unions are protected by this legislation.

SOME HON. MEMBERS: Hear, hear!

MR. SWAN: — My question is to the Attorney General. Indications I have are that 47 per cent of the mortgages in Saskatchewan are held by credit unions — some $760 million. How are these people supposed to operate if, indeed, you plan goes into effect? If they don't have money coming in from their creditors, how are they going to have money available for others to borrow? I believe that you're not taking a serious look, at all, at what's happening to the credit unions, but rather are looking at vote-winning things for the NDP. I would ask you again: what are you going to do to assist the credit unions to weather the kind of political and financial storm that they're going to face over your bill?

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — Mr. Speaker, I don't believe the credit unions are going to have to weather any kind of a political storm unless that political storm is mounted by the Conservatives opposite. The assumption by the hon. member opposite is that the credit unions are going to be facing a financial hardship with respect to this bill. That is based on the assumption that there are going to be massive numbers of people who are not going to be making their mortgage payments. That may be the case, if the economy continues to turn bad, pursuant to the non-activity of the federal government with respect to interest rates and the like. But that's an assumption which cannot be made at this time. We have to see how the bill operates. We have to see how the economy unfolds. We have to see how many people in this province do make their payments even though they happen to be squeezed at other ends, before we can make the assumption that the credit unions are going to suffer financially. If I were one of the hon. members opposite, I would take that into account first, before coming to the so-called protection of the credit unions. We are worried about the credit unions — more so than the hon. member opposite — because, in the end result, it was the credit unions which served as the front-line defence against the chartered banks in the 1930s and 1940s in this province.

SOME HON. MEMBERS: Hear, hear!

MR. SWAN: — A supplementary to the Attorney General. Are you prepared, Mr. Attorney General, to exempt the credit unions from this bill? If you don't, really you're passing on the costs of this bill to the citizens of Saskatchewan, the individual citizens who are the owners of the credit unions. You are indeed passing your costs on to them. The government is putting no money into it, so it must be that you want the general population of the province to pay the cost of this bill.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — Mr. Speaker, the hon. member opposite continues to predicate his question with an assumption which I do not accept, the assumption that there's going to be a charge on the credit unions. There may or there may not be. That is something we can assess when we reconvene in February or March, or whenever we reconvene, and can see how the bill is operating and what the level of payments are under the new mortgage interest rates and renewals that have come due in 1982. If there is a situation which redounds to difficulty for institutions, obviously the government is going to have to take a look at that. To draw that conclusion today, December 9 or 10, whatever the date is, I say is premature and I can't answer it.

Loopholes in Home-owner Protection Act

MR. ANDREW: — A question to the Attorney General that relates to the question of loopholes. I suggest that you, as a lawyer, knowing full well of the court process, know there are enough loopholes in that bill to drive a Mack truck through. The result of that bill, Mr. Attorney General, is going to be that hundreds of people are stacking up in court. Is that not what you, in fact, anticipate happening, Mr. Attorney General — the courts stacked up, 16 deep, dealing with this particular bill?

HON. MR. ROMANOW: — Well, Mr. Speaker, I'm pleased in a sense to note that the hon. member has spotted loopholes. I'll be inviting him to tender his motions to plug those loopholes when the bill comes to committee. I'll be inviting him, and the other Conservative members, to give me specific suggestions on the sections where you say those loopholes, which are big enough to drive Mack trucks through, exist. I can tell you that if there are loopholes that we've identified or that you've identified, I'll be the first to second those motions — absolutely. But on the other hand, your friends, the banks, take a different position. Your friends, the banks, say that this bill is not needed. They say people are not being foreclosed. Why do we need the bill? If that's the case, why do they oppose the presentation of this bill? Why do they take the position that you do, that it's full of legal loopholes and trickery. The simple fact of the matter is that this is a piece of legislation which is necessitated by economic circumstances in Saskatchewan and in Canada today. Instead of opposing this bill, you should be standing up for the home-owner.

SOME HON. MEMBERS: Hear, hear!

Decision on Mortgage Renewals to Rest With Courts

MR. TAYLOR: — A question to the Premier. Mr. Premier, you spent the past summer travelling this country explaining to Canadians your stand on the charter of rights and the new constitution. I believe it's correct to say that you felt such things as abortion, capital punishment and other items would be better dealt with in the legislatures instead of in the courts. Why then, Mr. Premier, do you introduce legislation in this Assembly that relegates the decisions to be made on mortgage renewals to the courts and not to the Legislative Assembly of Saskatchewan where, in your own words, these decisions can best be made?

HON. MR. BLAKENEY: — If the hon. member took any of my comments to mean that this legislature should make decisions on individual cases of human rights under the charter, then surely that is a total perversion of anything I have ever said. The idea behind a notwithstanding clause in a charter of rights is to permit legislatures or parliaments to make decisions which are inconsistent with court decisions on that charter of rights, where the court decision affects a major change in social policy.

We, here, are not dealing with any possibility of a court making a decision which will affect any major change in social policy — far from it. We are trying, in this legislature, to set the social policy to decide that we will protect home-owners, that we will provide the rules which the courts will operate on. I assure the hon. member that if the result of the court decisions is not appropriate, we will be back in this legislature. That is what I said ought to be the case with respect to charters of rights dealing with fundamental social issues. That is the course of action we are recommending and I am unable to see why the hon. member finds it in any way incongruous to suggest that courts ought to be

able to make decisions on individual issues, but legislatures ought to make broad public policy.

SOME HON. MEMBERS: Hear, hear!

MR. TAYLOR: — Supplementary, Mr. Speaker. Your seatmate the Attorney General sat in this House not two minutes ago and said, "We're not sure how the ramifications of this bill will come about." Isn't your purpose to delegate this to the courts because you realize that the outcome of this bill may be utter confusion and politically damaging to your party? Therefore you want to put it on the backs of the courts and not discuss it in the legislature where it can be improved.

HON. MR. BLAKENEY: — Mr. Speaker, we are more than happy to discuss it in the legislature; we are going to discuss it in the legislature. If members opposite think they can get away with failing to commit themselves on where they stand on this bill by wanting to debate it in question period when all they need to do is ask questions and not have a vote, then let me assure hon. members that they will have their full opportunity, not only to debate this, but to vote on just where they stand on it.

SOME HON. MEMBERS: Hear, hear!

MR. ANDREW: — A question to the Premier. Section 16 of this particular act deals with regulations which very easily could be the heart and soul of this legislation. Can the Premier advise this Assembly if those regulations will be on the table of this Assembly today? Or are we going to see the same type of performance we saw on the beef stabilization bill? The legislation passed last spring and the regulations are still not ready today.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — Mr. Speaker, I've indicated to the hon. member in the past, and I repeat again with respect to this particular section, the section allows exemption of class of creditors or class of debtors. I've told the hon. member before, and I have said this to the press, that that section is there to see how the bill operates from January 1 to December 31, 1982.

It may very well be that we may need to implement some regulations. We anticipate no regulations; we have no regulations to introduce because we anticipate the need is not going to be there to have regulations. Accordingly, we cannot say that we are going to be tabling these regulations. I wish that the hon. member would, for once, read the bill and understand it (although I rather give up on the second hope).

Protection for Home Renters

MR. BIRKBECK: — Mr. Speaker, I would direct a question either to the Premier or the Attorney General. I would hope to have an answer from the Premier. Mr. Premier, given that Saskatchewan residents are not appropriately protected by regional rent controls, that they consider their dwellings to be their homes, and that they are not included in The Home-owners' Protection Act, would you be prepared to accept amendments to the bill giving these people the same intended protection as is presently defined in the act?

HON. MR. BLAKENEY: — Mr. Speaker, if hon. members opposite wish to include, in the

legislation, amendments providing for province-wide rent control, they will certainly be considered. We have not had province-wide rent control for some time; we have not seen any particular need to have rent control except in the major cities. If the policy of the Conservative Party is province-wide rent control, and they wish to move an amendment to that effect, we would certainly consider it.

MR. BIRKBECK: — A supplementary, Mr. Speaker. Mr. Premier, you know very well that my question was not a policy of province-wide rent control. My question (and you can laugh if you like) is very simply this: are you going to give renters the same protection in this act as others who are presently defined in the act? Can you answer that question?

HON. MR. BLAKENEY: — The answer, Mr. Speaker, for those who can read, is that they will observe it is The Home-owners' Protection Act . . . (inaudible interjection) . . . Let me try again, Mr. Speaker.

The hon. member for Moosomin takes the position that renters are home-owners. Obviously, in one sense of the word, I suppose, they have a home. The point that this bill tries to address itself to is the renewal of mortgages faced by persons who have legal title to homes on which they have mortgages or, alternatively, are buying houses under agreement for sale. That is the scope of the bill. We have other legislation which deals with rent control, and hon. members opposite are more than free to introduce legislation dealing with rent control. Because we have legislation which is available to be amended, they know how it operates; if they wish to advance a policy in the form of legislation, we will consider it.

I think it is understandable why we are a little less than impressed with their asking questions suggesting that we take a position, and then when asked if that is their position, they say, "Oh no, it's not our position. We don't have any position with respect to renters; we just want to know what your position is with respect to renters."

Mortgage Interest Rates

MR. ROUSSEAU: — Mr. Speaker, I have a question for the Attorney General. It is perhaps more in the line of a point of clarification than anything else. This morning, Mr. Attorney General, on a radio talk show which you were on, you left the impression with me and the host (I have heard the tapes since that time) that the interest rate at the time of renewal of a contract would be deferred from the present interest rate to the new rate established at that time. It would only be a deferral of that interest until 1983. Is that correct?

HON. MR. ROMANOW: — Mr. Speaker, I obviously have not read the transcript of the talk show. I would have to check and see exactly what the member refers to. But I tell you, my interpretation (I will be pleased to deal with this at length in Committee of the Whole, clause by clause) is that the mortgage interest rate which is owing and due during the time period is the one which is last owing by the debtor. He is under no legal obligation, the way I interpret this bill, to pay the new interest rate if that new interest rate comes during the period of the bill.

Unlike the members opposite, I am encouraging Saskatchewan people, wherever possible, to make sure that they make their payments. I am not urging them to dodge those payments. But if they are in economic circumstances or difficulties which necessitate a look at their situation, the bill provides that protection.

MRS. DUNCAN: — Mr. Speaker, my question is to the Premier. In the Speech from the Throne read by the Lieutenant-Governor, your government alluded to a home-owners'

security act. Yesterday when the bill was tabled in this House, it became apparent that the bill wouldn't provide security to home-owners but protection to home-owners — and very limited protection. My question to you, Mr. Premier, is simply this: what will happen to those home-owners who on December 31, 1981, face the same type of grave financial difficulties in 1982 when the bill runs out? What can you give to those people? Would their circumstances change any more in one year than they are today with inflation, the cost of living, cost of food, cost of clothes escalating every day?

HON. MR. BLAKENEY: — Mr. Speaker, one can always hope that the federal government will begin to discharge its responsibilities. No one, I think, can deny that our constitution, the British North America Act, which we have heard something of in the last year or so, contains a provision, section 91. It has a subsection 19 which says that the responsibility for interest (just that one word) is a federal responsibility. Accordingly, clearly, if the problem is that the rates of interest are too high, which I believe is the basic problem, then it remains to be addressed by the federal government.

We have heard pronouncements from the federal Minister of Finance that he is going to ask the banks to bleed a bit. I haven't seen any real evidence that they are bleeding very much. If it starts, they will certainly have a lot of blood to give up judging from their current rates of profit. We certainly hope that this will come to pass.

We do not suggest that this bill offers full protection or full security (pick your word) for home-owners. It is assistance. In the Speech from the Throne (and I invite hon. members to read it) the suggestion was that it was going to protect home-owners who were in danger of losing their homes through foreclosure. It certainly will do that. And it will, I hope, offer some further measure of protection by allowing home-owners to select a time at which they might renew their mortgage during the next 12 months. This will depend upon the nature of the mortgage document they have, but with many of the outstanding mortgage documents, the effective choice for the home-owner will be that he may choose to renew his mortgage at a date somewhat different than the renewal date, and accordingly, may be able to select a time when the interest rate is lower, if he is able to predict that. Clearly, the mortgage interest rates have come down. Anybody who has an opportunity to renew his mortgage today is better off than he was six or eight months ago. Maybe that will be true six months hence, maybe not. At least if it is true, many, many mortgage owners will have an opportunity to take advantage of that fortuitous circumstance.

SOME HON. MEMBERS: Hear, hear!

MR. GARNER: — Mr. Premier, are you now prepared today to cancel out your options and proposed takeover of Norcanair, a sodium sulphate mine and a $430 million takeover of the oil companies in Saskatchewan? The people in Saskatchewan are in utter confusion over this new bill. You can laugh. It's a big joke, Mr. Premier, you have hung the people of Saskatchewan out on a limb. Your government has loaned $700 million from Crown investments to the other Crown corporations in Saskatchewan, interest-free. The question is: when are you going to quit spouting hot air to the people of Saskatchewan and lay some of their tax dollars on the table today?

SOME HON. MEMBERS: Hear, hear!

HON. MR. BLAKENEY: — Mr. Speaker, I certainly share the view of the hon. member for Wilkie, that the people of Saskatchewan — at least some of the people of Saskatchewan

— are confused, and the member for Wilkie heads the list. He asks what happens to these tax dollars, and he's obviously referring to the heritage fund tax dollars — the money that comes into the heritage fund. Virtually all of the loans to which he referred are loans from the heritage fund — not all of them, but virtually all of them. May I just invite him to look at the estimates for last year and see what happened to $500 million or $600 million of that money? It went to pay for hospitals and schools and roads and expenses of this legislature. By far the greatest amount of that money went for services which . . . (inaudible interjections) . . . The largest amount of that money went for hospitals, and I ask the member for Wilkie whether he . . . (inaudible interjections) . . . He says that the money was not well spent.

MR. SPEAKER: — Order, order! If I could just co-ordinate the members in the House, so that when a member of that side of the House gives a question which is debatable, I could get his members to call out "debate," and the same on this side of the House. We then might have some opportunity to stem the debate which takes place in question period. Members of the House are not allowed to debate in question period. The question was clearly debate, and the answer, consequently, is clearly debate. Now why do the members insist on debating and then get upset when someone debates? It's a question period; it's not a debating period. However, we will get to a debating period shortly, I'm sure.

INTRODUCTION OF BILLS

Bill No. 29 — An Act to amend The Ombudsman Act

MR. MUIRHEAD: — Mr. Speaker, I am pleased to introduce for the first reading an act to amend The Ombudsman Act. With your permission, Mr. Speaker, may I give a brief explanation of this bill. Am I allowed, Mr. Speaker? This past summer . . .

MR. SPEAKER: — Order, order!

HON. MR. ROMANOW: — My point of order is simple. The member is moving first reading of a bill. It is not within the rules of this House to permit "a brief explanation" when moving first reading of a bill. Accordingly, I would ask that the rules of the House be maintained.

MR. SPEAKER: — I refer the members to the rules of the House. I am unable to tell whether the member for Arm River is outside of the rules at this point, because as far as I can see, he has not abridged the rules. Under rule 46(2):

> A motion for first reading of a bill shall be decided without debate or amendment, provided that any Member moving first reading may be permitted to give a succinct explanation of the provisions of the bill.

MR. MUIRHEAD: — Mr. Speaker, this past summer Saskatchewan was the host province for the national conference of the Canadian ombudsmen. At that time it became clear that the ombudsman of Saskatchewan does not have the necessary power to effectively carry out his job. The purpose of my bill is to rectify that situation and give Saskatchewan an effective ombudsman in every sense of the word. Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

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

STATEMENT BY MR. SPEAKER

Remarks by Minister of Agriculture

MR. SPEAKER: — Before orders of the day, I want to make a statement. Yesterday the hon. member for Moosomin raised a point of order regarding certain remarks made by the Minister of Agriculture on December 7, 1981. The hon. member raised the point because he felt the remarks in question imputed unworthy motives to members of this Assembly. I do not find any specific reference to members of this Assembly nor, in fact, did I see any unparliamentary remarks. There was reference to the presence of "henchmen" at particular meetings, but I believe this is a point of debate and not a question of order.

ORDERS OF THE DAY

HON. MR. ROMANOW: — Mr. Speaker, I am going to ask leave of the House to return to government motions later this day. I will be asking permission of the House to do that.

GOVERNMENT ORDERS

SECOND READINGS

Bill No. 27 — An Act respecting the Protection of Residences in Saskatchewan

HON. MR. ROMANOW: — Mr. Speaker, I rise to move second reading of this bill in what is obviously going to be a very partisan and controversial debating time surrounding the objectives and the purposes of this bill. The opposition, clearly, is line up in opposition to the legislation; the government is proposing the legislation for the consideration of the members of this House and for the public. I agree with the Leader of the Opposition when he says they are in the hip pockets of the banks. I know he laughs at it, but their actions speak louder than their words. They say they do not speak for the banks. They say they are interested in the average person in the province of Saskatchewan. They will have an opportunity to stand up and show exactly how those words are supported by their actions sooner or later in this Legislative Assembly.

Mr. Speaker, the basic purpose of this legislation is to ensure that Saskatchewan people do not lose their homes because of economic circumstances beyond their control. That is the basic purpose of this legislation. Any other interpretation of it would be perverse, to state it mildly. It is legislation which prevents the commencement or the continuation of actions for foreclosure or cancellations of agreements for sale during the period December 31, 1981, to December 31, 1982.

Mr. Speaker, I should point out that a provincial government is faced with several substantial problems in drafting legislation in this area. Only the federal government, under our constitution, has the constitutional authority to pass laws dealing with interest rates. There is no doubt that the major problem for home-owners if the interest rate for mortgages. There is no doubt that the easiest and most effective way to deal with this problem would be to pass a law either setting the interest rate for home mortgages or giving the court the power to determine the mortgage payment or, more

properly perhaps, to have a sound and sane economic policy in Canada, which for a change gives some opportunity to our small businessmen and our farmers, which is not being done federally.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — The point is, however, that constitutionally, legally, there are limitations within the powers of any provincial government.

Mr. Speaker, just a word of background about what prompted or forced the government to introduce this piece of legislation. I say to the members of this House that the evidence is everywhere that over the last several years (perhaps that's a little bit long, but over the last little while) there has been a total abdication of economic leadership by the federal government in Ottawa. I say that abdication of leadership took place during the regime of the former prime minister, Joe Clark, and continues during the administration of Prime Minister Pierre Elliott Trudeau.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — The federal government, since October, since the current session began, has had an opportunity to do something with this problem. They have had an opportunity to try to right the economy. They have done nothing. They have had an opportunity to introduce legislation to grapple with the interest rate problem for home mortgages, or to give the courts the power to vary payments for home mortgages, or to provide some form of relief to the people of this country. They have chosen to do none of these things. Why? Why is it that the Conservative government of Mr. Clark, why is it that the Liberal government of Mr. Trudeau, the two old-line parties, the two governments which have governed this country now for 114 years off and on — why is it that neither of those two parties has done anything when they had the chance (and do have the chance) in office for the average home-owner in this country? That is a question which has to be asked and answered.

I think there are some political answers to that, some political answers which are going to await. Conservatives, provincially and federally, and Liberals, provincially and federally. I think partly it is also because they don't understand the predicament faced by the average citizen in this country, by the average Saskatchewanian. It might be perhaps that they really don't care about a person losing his home. Or perhaps it may be because they are afraid to offend one of the most powerful segments in the determination of economic policy in this country, the chartered banks of this country, the supporters and backers of the two major old-line parties in this country.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — We don't have to look very far, Mr. Speaker, in this Legislative Assembly to see who speaks in support of the banks of this country. We saw it today in question period, and we have looked at the members opposite to find these same voices and friends of the banks right here in our province of Saskatchewan, right here in this legislature.

The member for Indian Head-Wolseley says that is baloney. It is the hon. member for Indian Head-Wolseley himself who only in September in 1981 circulated to every member in his constituency a pamphlet advocating that the economic policy of the Government of Saskatchewan be (in the exact words of the hon. member) "the

economic policy of President Ronald Reagan of the United States."

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — That is what the member for Indian Head-Wolseley said. The member says that I am misquoting. I wonder if someone, while I am on my feet, would call my office. In my reply to the Speech from the Throne, which I was not able to deliver last night, is a pamphlet from Indian Head-Wolseley on that point. I want to make the point that I remember this clearly.

I say, Mr. Speaker, to the hon. member for Indian Head-Wolseley that notwithstanding his recent demotion within the Conservative caucus, he still was the runner-up to the leader in the leadership campaign. He still is a voice, and a powerful voice, through which the people of this province can judge what the Conservatives believe in terms of economic action.

I say the hon. member for Indian Head-Wolseley advocates on behalf of his party a policy of economics in support of the policies advocated by Ronald Reagan in the United States. I say that's policy of tight money, high interest rates, and support for the chartered banks in the United States and Canada.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — I am going to get the quotation if they can locate it in my office (and certainly if I can't do it in my main address I shall take the opportunity in clause-by-clause wrap up to bring this to the attention of the public), but I say also that we don't have to look to the hon. member for Indian Head-Wolseley to talk about support for Reaganomics.

For days now, since this House was opened with the Speech from the Throne, we have been warned by the members opposite that we ought not to bring in home-owner protection legislation because we're going to cause all kinds of troubles. Sometimes those troubles, they say, are going to redound to the home-owners. Sometimes those troubles are to redound, they say, to the financial institutions. Sometimes, the member for Kindersley says, those troubles are going to redound to lawyers because there are going to be loopholes and all kinds of difficulties associated with that.

But has anyone (and I ask the members of the public who have been watching this debate) heard them say that we ought to be introducing legislation to provide protection and security for the home-owners of this province? Not once, no. Oh, they'll say we should be providing protection and support for the home-owners by giving money, direct subsidies, to the home-owners so that money can go, at 18 per cent, 19 per cent, 20 per cent and 21 per cent interest rates to the chartered banks and the lending institutions of this country. That's their proposal. That's exactly what they want. They want the province of Saskatchewan to subsidize, out of taxpayers' money, so that the profits of the chartered banks in this country can be, as the Minister of Urban Affairs says, even fatter than they are. I'll say a word about that before I take my place in respect to this bill.

There is not a word, Mr. Speaker, about home-owners' protection, foreclosures, about people losing their homes and not a word about standing up with us in this legislature. No, their worry is about the financial lending institutions. Their worry is those banks

with the usurious profits that are being forwarded to them. I say that the policy of the member for Indian Head-Wolseley and that of his party is well known . . . (inaudible interjection) . . . I shall read it. The member challenges me to read it. I cite this, Mr. Speaker, in support of my contention that these members opposite have determined that they shall oppose this legislation because of this economic philosophy. Here it is. This is a constituency newsletter which has been put out by the former deputy leader of the opposition, the member for Indian Head-Wolseley. I'll read the whole letter:

> Dear Constituents: As our busy harvest season draws to a close, we've been blessed with the best harvest weather for many years. Although in most areas the harvest has been satisfactory, it is indeed frustrating and a serious weakness in our country that allows crippling strikes to prevent the sale of our farm products.

Mr. Speaker, that will be another debate on another occasion, about that good old anti-union bashing that keeps going on. He goes on to say this:

> We are living in a time that needs strong action and determination such as exhibited by President Ronald Reagan of the U.S.A. This is in contrast to the waffling and fence-sitting tactics of Premier Allan Blakeney. He's not standing up for the West. Economists from around the world claim Saskatchewan has the potential for a great future. The Blakeney government has been in power for too long. It is time for a change.

And it goes on.

AN HON. MEMBER: — You said economic policy.

HON. MR. ROMANOW: — Yes, I say . . .

MR. TAYLOR: — Point of order, Mr. Speaker. If you will search the words of the Attorney General, you will find he said that in my pamphlet I said we need the economic leadership of Ronald Reagan. You have just heard, with your ears, that there isn't one word about economic leadership. It's strong leadership which could be moral leadership or many other things. I demand an apology from him.

MR. SPEAKER: — Order, order! I am at a bit of a loss as to the reason for the point of order except that the member wants to make some correction. I can understand that the member might be upset if he were misquoted in the House. I think the matter boils down in its essence to a debating point and all members on both sides of the House will have plenty of opportunity to ventilate this subject as we go through the days and nights ahead of us.

MR. TAYLOR: — Obviously, he sent out of this legislature for a pamphlet that I wrote which he misquoted. I demand that he retract his statement.

MR. SPEAKER: — Order, order! I don't want to get into the debate. I think it's quite clear that the matter before us, as raised by the member for Indian Head-Wolseley, is a debating point, and those can't be used as points of order, or members can't be made to retract them because they said them in the House. So the Attorney General can proceed.

HON. MR. ROMANOW: — Mr. Speaker, as I was saying, the hon. member said in his

pamphlet the following, and I quote:

> We are living in a time that needs strong action and determination, such as exhibited by President Ronald Reagan of the U.S.A.

The hon. member can say that that's out of context; the hon. member can say that he was referring to moral or ethical leadership. He says that nowhere does it say that he supports the economic policies of Ronald Reagan. Nowhere does it say, Mr. Speaker, that he says he supports the moral policies of Ronald Reagan there either. He simply endorses the proposals of Ronald Reagan in the United States holus-bolus, and I say that's adequate for me to conclude that they support Reaganomics. They support Reaganomics, Mr. Speaker. That's my conclusion from those words. And I say that it's been buttressed by what they've been doing in this Legislative Assembly. He can't say that because he didn't mention economics, he meant something else, because he didn't mention anything else in it either. He adopted the policies holus-bolus, and he knows it.

The hon. member is pointing fingers at me when he's sitting down. He'll have a change to get into this debate. You bet you will. The people of Saskatchewan ought to know that if the Conservative Party of Devine should ever be elected, this bill would be undone and Reaganomics would be the order of the day with regard to the home economics involved in this operation.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — Well, the hon. members laugh, and the hon. members opposite try, of course, to amend the interpretation. I'll drop this; I'll leave the issue on this point. That is one word. There will be others said during the course of this debate about Mr. Devine's statements about economics on the supply side and the theory of management of economics, Reaganomics. Look, how can anybody in Saskatchewan believe otherwise than that the history and the sole purpose of any conservative Party in Saskatchewan, or outside of Saskatchewan, is to do one thing, and that is to protect the vested interests that have run the economy of this country right from day one? What else can anybody conclude?

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — Mr. Speaker, I want to say to the members opposite, and the public as well, that I make the point that they are Reaganomics advocates. I make the point that they are supporters of the financial lending institutions. I argue that they have not said one word since this bill was announced in the Speech from the Throne in support of the home-owners. I'll have a word to say about their proposal of mass subsidization, which they talked about.

I say, Mr. Speaker, that we have witnessed here in Canada an unparalleled increase in interest and mortgage rates. Everybody would accept that. For the average wage earner with a mortgage on his home, this has produced a difficult and depressing situation. He continues to be a hard workers, steadily employed. He has gone out and purchased a home, and the banks, the lending institutions, in some cases have told him that he could easily afford such a mortgage. For the past five years, he's been able to afford the mortgage and enjoy his home. Now he finds out that his interest rate will almost double when he comes to renew his mortgage. He expects to pay more when his mortgage has been renewed; that's the case with all of us. But no one, even in his wildest dreams,

expected to find his mortgage payment doubled, as has been the case.

What has gone wrong? And who will do something about this? The federal Liberals tell us t wait, to practise restraint. They say, "Cut back on furniture, cut back on other things, squeeze and somehow you will make your payments — succeed." This is what a caller said to me on the hotline this morning. He said that there isn't anybody who couldn't afford to make his payments. I said in response what I say now. Saskatchewan people are the most responsible people when it comes to the meeting and the payment of their obligations. Sure, they may make their payments, but they are going to suffer at other ends. They'll suffer with respect to other necessities, or in some cases, luxuries. They'll have to suffer on those. There will have to be two people earning income in order to keep these interests and these payments going. Who is going to indicate any support for them?

Mr. Speaker, some people say (members opposite hint at it) that this bill is an overreaction on the part of the government. They say that there are not enough foreclosures or people in trouble to justify this sort of measure. The credit unions are saying that. And is the hon. member for Kindersley saying that? No. The hon. member for Kindersley never says anything that would get on record. Never. That's what some of the people are saying.

But the facts are a different story, I tell the hon. member for Kindersley. The five-year mortgages coming up for renewal in 1982 are somewhere in the neighbourhood of a 10 per cent range interest. In the last months of 1981 the mortgage rate has been at about 18 per cent. It has been higher in 1981, and who knows how it could go in the months ahead? This means that there is a differential for sure of about 8 per cent on interest payments.

Mr. Speaker, in 1980, Saskatchewan had more than 400 actions for foreclosure which were commenced in the judicial centres of this province. Where can people turn when they find themselves in difficulty with mortgages? The hon. member says, "Explain that." I want the hon. member to explain that. I want the hon. member to put a good face on the fact that over 400 people faced foreclosure action. I want the hon. member to get up and tell me, "Oh, it's only just the threat of taking away their loan, that's all. We were just joking. In actual fact it doesn't translate to the actual foreclosures." That's what I want the hon. member to get up to explain. I want him, from the party so-called which has got this new found compassion for people, to tell this House what is meant by that amount of operation.

The Hon. Leader of the Opposition just laughs. New compassion? Mr. Speaker, hogwash. They move up the member for Thunder Creek as the energy and economic development critic to sit to the left of the Leader of the Opposition. They move up the member for Kindersley as the industry critic to sit to the right of the Leader of the Opposition. They move back the education critic, the former deputy opposition leader. They move back the health critic. They do. How do you explain that? And this is a party that says it puts priority in this House on people matters. I say anybody who believes that would believe anything at all.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — Mr. Speaker, I want to tell you that the hon. members opposite . . . (inaudible interjection) . . . The hon. member says, "Education is sitting there." The hon. member knows full well that the preceding choices are made by the

leader based on seniority in the Legislative Assembly. That has been the tradition for the last 75 years, and one of the unfortunate sides of this tradition, apart from downgrading health and education on the Conservative side, has been in my judgment the downgrading of the only female member of this legislature from a front row seat to a back row seat in the same party.

In any event, Mr. Speaker, that's another issue. If I had been given an opportunity to make a few of my choice remarks in the reply to the throne speech debate yesterday, I might have made them, but I can't in this debate.

So, Mr. Speaker, I'm leading the members of this Legislative Assembly through the position of economics and the posture of opposition to this bill taken by the Conservatives, through the consequences and the difficult circumstances in which many people in Saskatchewan find themselves. I'm asking the question: who is willing to do something about it, in the absence of action federally and in the absence of action provincially?

I say, Mr. Speaker, that the answer is clear. This government is prepared to do something for the home-owners of this province. This government believes that people should not lose their homes because of economic circumstances beyond their control. We cannot control interest rates provincially, or the rate of growth of the national economy, or national economic policies. That we can blame totally, or give credit for totally, to Conservatives and Liberals. But we do have the power to try, within our constitutional mandate, to do something to prohibit the possibility of foreclosures and cancellations of agreements for sale. We are prepared to try to give security for home-owners in Saskatchewan, and this is what the purpose of the main bill is.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — Mr. Speaker, I want to give a detailed explanation of the bill. Before beginning, I want to correct several misrepresentations. Perhaps I should say to my friends in the press gallery, not misrepresentations but innocent misinterpretations of the bill.

The bill does not provide an option for a home-owner to stop mortgage payments or to refuse to renew a mortgage. I heard that and saw that. While it is true that it takes away the mortgagor's ultimate weapon, foreclosure, it does not permit the mortgagee to cease his responsibilities and obligations by statute. I believe it is dangerous for members opposite to actually suggest (if this has been an accurate report, as the hon. member for Kindersley was reported to have done last night) that people should use this bill as an excuse not to meet mortgage payments or to refuse to enter into mortgage renewals . . . (inaudible interjection) . . . You said that on television last night. I know the newspapers had a slightly different variation this morning, but last night on the television stations the hon. member said that. I heard him say it.

AN HON. MEMBER: — I heard him, too.

HON. MR. ROMANOW: — I want to tell the hon. member, regardless of how the quotation appears in the *Leader-Post* this morning, I say . . .

AN HON. MEMBER: — Why not?

HON. MR. ROMANOW: — The hon. member asks, "Why not?" I say that is a kind of irresponsibility that no political party should be urging on the people of any province, let alone the people of the province of Saskatchewan. The hon. member for Regina South ought to be ashamed of that. Frankly, I'm shocked at suggestions by these people, who say they see more loopholes than a Mack truck can drive through, that this is one of the loopholes people should be using. I have better faith and more confidence in the people of this province than my Conservative friends, who believe that people they know are simply out to do what is best for themselves. The people of this province have a history of responsible action in all of their dealings.

Mr. Speaker, I want to talk in some detail about the provisions of the bill — first about section 2. I'm going to say a little more after I give the detailed provisions and quite a bit more about the Conservatives' position and the banks' position, as I have seen it reported in the 24 hours since the bill has been tabled. And I will also talk about some other aspects of this bill after I give the detailed explanation.

First, I will deal with section 2. This is the definition section. Action is very specifically defined to mean an action with respect to land which is a principal residence by a mortgagee or a vendor under an agreement for sale. The definition of home-owner also includes a purchaser under an agreement for sale. In order to qualify as a principal residence, the home-owner, spouse or wholly dependent children must actually be residing on the premises.

Section 3 states that the purpose of the bill is to protect home-owners against the loss of their principal residences. That is the heart and soul of the bill, not section 26, the exemption making section or regulation making section which the hon. member for Kindersley talks about.

Section 4 states that the act will apply on mortgages on principal residences made pursuant to the National Housing Act. This includes all CMHC (Canada Mortgage and Housing Corporation) mortgages and the Farm Credit Corporation of Canada. The Crown is bound by the act.

Section 7 is an important part of the bill. It provides that one and all applications for leave to commence a foreclosure action or an action to cancel an agreement for sale are adjourned to a date after December 31, 1982.

Secondly, all actions for foreclosure or cancellation of an agreement for sale already in progress are postponed until a date after December 31, 1982.

Thirdly, no actions for foreclosure on an agreement for sale may be commenced until December 31, 1982.

Fourthly, the period of December 31, 1981, until December 31, 1982, is not to be calculated in the times set out in The Limitation of Actions Act for commencing an action.

Now I move to section 8. Under this term, notwithstanding any interim order in an action, the period to redeem the mortgage or agreement for sale is extended to January 1, 1983. Only when there is a final order of the court before December 31, 1981, can the matter proceed.

Section 9 permits a mortgagee or a vendor under an agreement for sale to apply to the

courts for an order that sections 7 and 8 do not apply to a particular mortgage or agreement for sale in giving leave to commence an action for foreclosure or cancellation of an agreement for sale. Before granting such an order, the court must consider all the factors outlined in section 9, subsection 2, such as: (1) terms of the mortgage, (2) value and condition of the principal residence, (3) earning capacity, (4) income and assets of the home-owner, (5) proportion of the home-owner's income going to meet the mortgage payments, (6) whether the home-owner has requested or received assistance from other mortgage assistance programs, and (7) general or local economic conditions.

The court may make inquiries into any or all of these factors and may require the mortgages or the home-owner to give information with respect to them.

I want to stop there, Mr. Speaker, because some members of the press, and member of the opposition, particularly the member for Kindersley, have spoken on this point. The member for Kindersley was on TV and radio on this point. Not that I would ever be jealous of publicity, which I get so little of. In any event, I was rather surprised to see the hon. member for Kindersley and his smiling countenance, so prominently featured, explaining our bill, without the government having as much of a chance. That's not always the case — the CBC has been good.

It was rather surprising to see the smiling countenance of the member for Kindersley as he explained this bill. I want to indicate one thing about what the hon. member for Kindersley says on this section. He says, "My goodness, this section transfers it all over to the courts. It's going to clog the courts. There are 20,000 mortgages and there are going to be 3,000 actions and there are going to be 5,594 adjournments. It's going to clog the courts and the whole thing is going to just die, collapse under the weight of it." That's what he said.

I want the hon. member, when he gets up in this House, to offer to me that he will move in Committee of the Whole deletion of section 9, because I tell him that I will second it. I also want to tell him that section 9 was put in there because some financial lending institution said that it would need a safety valve in case there was a person who was financially irresponsible and who was doing what the hon. member for Kindersley was advocating, namely, not to pay his obligations or sit back off the bill. That's exactly what the provision was; that's exactly the suggestion why it was put in there.

The hon. member opposite says that we're out there defending the credit unions. If the hon. member wants to move that this section 9 be deleted, I challenge him to get up when he follows me in this debate and I ask you, Mr. Speaker, to pay particular note to his words, whether or not he'll make that invitation to me. I bet you a dime to a dollar that he will not make that commitment or public challenge. I tell you, because he won't; it puts the lie to the allegation that this somehow shifts the purpose of security and moratorium from this Legislative Assembly to the courts, as the member for Indian Head tried to argue during the question period.

So I make that challenge; I extend that invitation to members of the Conservative Party in this regard. I invite the members of the media, after the adjournment . . . I know that there's so much news happening in the province of Saskatchewan that this may not get very much attention, but I invite them to ask the hon. member for Kindersley whether or not he'll be doing that when he gets up after his remarks.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — So, Mr. Speaker, I continue with respect to section 9, subsection (4). This requires the court to dismiss the application if, after considering all the circumstances, it is satisfied that it would not be just and equitable according to the circumstances, it is satisfied that it would not be just and equitable according to the spirit of the act to make the order. If the court does make an order, the mortgagee can reapply if there has been a material change in the circumstances which affect him.

Section 10 provides for an appeal from an order granted under section 9 to the court of appeal.

Section 11 states that where an order is made grating leave to commence an action for foreclosure or cancellation of an agreement, The Land Contracts (Actions) Act does not apply.

Section 12 provides that the Attorney General shall be given notice of all applications and appeals and gives him the right to appeal an order made under section 9.

Section 13 is the section setting down the rules for contracting out of the act. There is to be no contracting out unless the mortgage is a new one, entered into after December 31, 1981. Renewals of mortgages are not considered new mortgages.

Section 14 of the penalty section provides for fines of up to $10,000 for persons or directions of corporations contravening the provisions of the act.

Under the terms of section 15, the Lieutenant-Governor in Council can set up the Saskatchewan Home-owners' Protection Act Advisory Board. The board must have three or more members. It will advise the government on such things as the effectiveness of the act and the availability of mortgage money and other related factors. It will make recommendations on the sort of regulations, if any, that might be made or considered under section 16.

Section 16 sets out the regulation making powers. The Lieutenant-Governor in Council will be able, by this section, to exempt home-owners, mortgagees, contracts, agreements or classes of any of these categories from the operation of the act. We do not have plans to enact regulations, since we do not plan to exempt. Therefore when the hon. member gets up and says, "Table the regulations; table the regulations." I can't make it any more clear than that; we do not intend to have regulations or exemptions. I have also said to make it clear that if the advisory board, in the operation of the bill over the next 12 months, puts arguments to us or other matters which are worthy of consideration, this is another safety valve section. The regulation will be tabled in public and it will be done, obviously, with the concurrence of the advisory board, which will be a board made up of financial lending institution people. I think, Mr. Speaker, that is a reasonable provision. We also have the power to prescribe the duties of the board.

Mr. Speaker, finally under section 17, the bill will come into force effective December 31, 1981.

Mr. Speaker, that is a quick but, I think, a fairly detailed provision with respect to this bill.

I want to say one thing before I leave the actual law aspects of this bill. It was said somewhere — question period or somewhere, Mr. Speaker (I guess I'm not to allude to

a former debate) — that there are legal loopholes in this bill, loopholes one could drive a Mack truck through. It's an interesting phrase, because it's the same phrase that was used by the former leader of the Conservative Party, the hon. member for Nipawin. I say to the member for Swift Current that there has been nothing new and no phrases new from this tired, old Conservative opposition since the Conservative leader's departure.

I say to the hon. member for Kindersley and to the Leader of the Opposition, and I say this to the invisible leaders of the Liberal and Conservative parties — I ask any one of them for their loopholes. I ask members of the public to ask — perhaps the press might be even interested in asking — how the Tories propose to plug those loopholes. I am ready to make an offer to the hon. member, as I did in question period. You name the loopholes that you want to plug so we can make this an absolutely workable bill for a moratorium and protection for home-owners, and I can guarantee you that if amendments propose to do that, we are going to indeed support the bill and support the amendments. I give that challenge and make that request. And so, Mr. Speaker, I make this in a spirit of goodwill and co-operation to the hon. members of the Conservative Party opposite. I invite them to give their best thoughts as to how the legislation can be amended and we'll certainly give them very sympathetic and careful consideration.

Now, Mr. Speaker, a few closing words about this bill generally and some of the criticism that I've heard since the bill has been introduced in the House. I've already said that it is, in my judgment, one of the most distressing and irresponsible reactions, with all due respect, that I have seen in a while — to have seen and heard the member for Kindersley on television and radio last night advise people not to pay their mortgages and not to bother renewing their mortgages. In fact the words were, "Why bother?" He spoke of taking this money and investing it at a higher interest rate. Mr. Speaker, in my judgment, coming from a new, ascending spokesman in the Conservative caucus, one who has taken over as the House Leader, one who has taken over as the deputy opposition leader, this is a perplexing and worrisome spectacle to me, and it should be to the people of Saskatchewan.

A few days ago, in question period, the member for Kindersley warned us of the very, very serious consequences for banks and credit unions if we dared to go ahead with doing anything to affect home mortgages. Now that we have done something, he is urging the people not to meet their obligations and not to pay their mortgage payments, and not to renew their mortgages, but to wait out the term of this bill.

Now, here's the point I'm making, Mr. Speaker. The whole thrust of question period by the Conservatives was that we are going to be hurting the credit unions by this bill. And what was the whole thrust of the member for Kindersley last night? "Don't pay your mortgage payments to the lending institutions. You'll hurt the credit unions that way by not making your mortgage payments to credit unions." That's what he said.

Now, I know that whatever some members on this side of the House have to say gets very little attention, appropriately I suppose, in the public. But I ask any fair-minded observer — I ask you, Mr. Speaker — to harken back to question period and the concern for protection of credit unions and square that concern stated this afternoon, supposedly, with the statement last night by the member for Kindersley on behalf of the Conservative Party that people shouldn't pay their mortgages. Compare how that concern stacked up last night for credit unions.

I'll be very interested in hearing what his explanation is. And if his explanation is, Mr.

Speaker, "Oh, I wasn't telling them not to make their payments. I was only saying that it was possible for people not to make their payments. I mean, I'm sorry that I happened to be recorded on television. I'm sorry that I happened to have gotten province-wide coverage. I really didn't mean to suggest to people that they should not be paying their payments. I really am a lover of the credit unions. I really want those guys to be making their payments. I really support the credit unions." If that is going to be his position, I say that is as phony as a $3 bill. It is as phony as the position of the Conservative Party on this bill entirely.

Mr. Speaker, the Conservatives, the official opposition, say that we resort to legal trickery. I say they resort to political trickery.

AN HON. MEMBER: — Oh, look who's talking.

HON. MR. ROMANOW: — Yes. The hon. member says, "Look who's talking." Well, you can laugh off who's talking, but until you answer how you resolve that difference on TV between last night and today, how do you expect the ladies and gentlemen of the press to treat you as a credible and responsible alternative to this government? Until you answer that, then I am prepared to take criticism about legal and political trickery. But you are not going to be able to. I want to tell you, the hon. member for Kindersley and the Conservative Party, by that position of advocacy last night and the major contradiction today, you have done a great disservice not only to the credit unions and the banks of this province but also to every home-owner and person in the province of Saskatchewan. That is the disservice you have done.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — You have, by that statement, hon. member for Kindersley, the official spokesman on behalf of Dr. Devine and the Conservative Party, confirmed what many of the people of this province have always felt about the Conservative opposition. It is exemplified in this bill, that it is an opposition based of smoke and mirrors. I am not going to adopt, Mr. Tendler's position with respect to section 9. "Don't ask me about the loopholes. Don't ask me about rent control. Don't ask me whether I am for it or against it. You are the government and not us. We just want to be the government." And what the people of Saskatchewan will get if they ever should be the government will be one big, glorious surprise. I say, Mr. Speaker, that is opposition by smoke and mirrors and nothing else, and is unworthy of the support of the province of Saskatchewan.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — I wonder, Mr. Speaker, why the members waited so long before giving their advice last night on television not to make payments to the credit unions. The member for Kindersley is a lawyer. He ought to know that even without this bill a person can refuse to make mortgage payments and still be liable for arrears for interest only at the rate of interest set out in his mortgage agreement until foreclosure. The same is true if a person fails to renew his mortgage. His arrears of interest are only those which are set out in his previous mortgage agreement until foreclosure.

Well, I want to tell you, and I want to make this absolutely clear to everyone, my advice and this government's advice to the people of Saskatchewan is totally opposite to the advice given by Dr. Devine and his spokesman in this House. My advice to the people of Saskatchewan is that they should try to continue to make their mortgage payments as best they can and as best as they have done in the past. They should go to their credit

unions and to the banks and tell them that they want to renew their mortgages and try to negotiate with them mortgage interest rates and mortgages that they can afford and that the financial institution can accept in order for both to succeed in the province of Saskatchewan. I do not advocate the position that the people of this province should say, "No, we are not going to pay." I advocate an approach of co-operation between lender and borrower so that the public and the act do not prevent institutions and the people of Saskatchewan going on about the business of daily living and business transactions in the province of Saskatchewan. "That is not my advice," says the member for Kindersley. "That is not my advice at all."

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — Unlike the member for Kindersley, I believe that the people of this province are prepared to do anything humanly possible to make reasonable payments on their houses. That has been a great tradition and a great history, the pioneering tradition of the province of Saskatchewan of which credit unions partly were spawned and grew from.

Now, Mr. Speaker, the member for Kindersley also criticized the bill on the basis that there will be so many applications under section 9 that the courts will be clogged. I have already made my point in that regard. I ask again, whether the member for Kindersley is saying that section 9 should be taken out of the bill. I repeat my offer. You move it, I will second it.

I would also add for the information of the member that this section — a similar one — has been requested or suggested to us by financial institutions. If the member for Kindersley decides that it would not be wise to repeal section 9, let me give him this additional alternative assurance. We are going to be keeping a very close watch on the number and types of applications made through the courts. If it appears that (following your advice) there is non-payment of the mortgage and (following your advice) there is a clogging of the courts by lending institutions, then when this House reconvenes, or earlier if the courts are having difficulties dealing with the applications or the purpose of this bill is being thwarted, we are going to take a very close look at that section 9. You now have an opportunity to do something with respect to it when you get up to speak.

Since this bill was announced in the throne speech, Mr. Speaker, spokesmen for the banks have been telling us that they don't foreclose. I heard one of the Conservative spokesmen opposite (I think it was the member for Regina South but I could be in error; if I am I will apologize to you) say, "Why do you need this bill since there are so few foreclosures?"

AN HON. MEMBER: — It wasn't me.

HON. MR. ROMANOW: — It wasn't him. I have already said to the members of this House that there were over 400 foreclosure applications last year alone.

You know, the spokesmen for the Conservatives and the banks get up and tell us banks don't foreclose. They say that banks don't want your house, they just want your money, and therefore they don't foreclose. The banks, supported by their friends in this House, tell us that they are really sympathetic. They really have a big heart for those people who can't keep up their mortgage payments. They tell us they will do anything to make arrangements so that they don't have to foreclose.

So, Mr. Speaker, we bring in a bill which says the banks don't have to and cannot foreclose. Well what are the banks now telling us? Now they are telling us, "We're sorry that we said we don't want your house, we just want your money." Now they are against the bill and they attack the legislation.

A Mr. Robertson (I believe his name is) says that he is going to take it to the lawyers to see whether or not there is any kind of challenge on the constitution on this matter . . . (inaudible interjection) . . . Yes, I have had lots of them and I tell the hon. member for Regina South that every time I introduce a piece of legislation to do things like potash legislation did to Central Canada Potash, or family farm protection, or a home-owners' protection act, and you and your friends take us to court, I can conclude that that is a positive sign rather than a negative sign.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — So here is the contradiction of the banks. They say, "You don't need the bill." Then when we introduce the bill they say, "Oh my goodness, we are opposed to the bill."

You know, Mr. Speaker, I am prepared to meet with these people from the banks. I got the first request by telephone only this afternoon from Mr. Robertson. The Premier got a letter dated December 1, a few days after, on this call. We'll meet with them. And if they have suggestions to make we are obviously going to consider those suggestions.

I'm going to ask you people in the House and your friends when they come to see me, if it is true, as report in the *Leader-Post* of December 9, 1981, that overall profits by the nine chartered banks in Canada jumped 37.6 per cent, rising to $1.716 billion in 1981 from a profit picture in 1980 of $1.247 billion, with assets rising from $269 million to $370 million. I'm sorry, the former minister of finance says billion — $390 billion! This Mr. Robertson is quoted as saying that the banks are going to consider whether mortgage money is now off limits to Saskatchewan because of this bill. The member for Kindersley heard him say that.

I want to say to the hon. members in this House that I'm prepared to meet Mr. Robertson and to discuss this bill. I want to know whether he was quoted accurately. Is he saying that with a $1.7 billion profit alone in 1981 expected, and with assets of $390 billion, the chartered banks of Saskatchewan are going to black-list this province if we don't withdraw this bill? Is he going to tell me, as has been indicated in the House, that they are afraid that this bill is going to be the first of a number of provincials bills, and that's the reason that they are going to go to court to try to stop it? I'm going to ask him, and I'm going to ask the hon. members opposite whether their position is that we should be subsidizing, through the heritage fund, interest rate differences from the current average of 10 or 11 per cent to 18 per cent, just so the profits of Mr. Robertson can go from $1.7 billion to $2.7 billion.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — That's the exact proposal. Now these are the boys who were saying that we have money for aircraft but none for the people. They said we have money for bathtubs but none for the people, that we have money for everything, Mr. Speaker, but none for the people. Some other time and some other occasion I'll explain my views of what the people of this province have; some other time and some other

occasion I am going to articulate, as strongly as I can, my wholesale condemnation of this total, wholesale running down of Saskatchewan that Dr. Devine and his spokesmen are doing inside and outside this province. I want to tell the good doctor, and his spokesmen in this House, that you are going to have to go a very long way in this country, in this world, to find a better place to live than Saskatchewan, by any yardstick.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — The opposition members say that we have all this money. Lo and behold, the one time that the Conservative opposition comes up with what they are going to do with this money, do you know what they are going to do? They are going to give it to their friends in the banks. I challenge the hon. member for Kindersley again. I have challenged him now on two or three occasions, on fundamental points about this bill, to explain to me how it is, since, as I've said in the House, the average of the renewable mortgages is coming from 11 per cent to 18 per cent, or 10 per cent to 18 per cent — about 8 per cent. Their proposal is, as he said in question period today, to make up that difference out of the heritage fund. Where does that money go: if it stopped with the home-owner, I could buy that. I could benefit by that. But it doesn't stop with the home-owner. Where does it go? It goes right to Mr. Robertson and the chartered banks of this country. That's where their proposal for money goes . . . (inaudible interjections) . . . All right, you tell me. Some of the members in this House are laughing. I challenge the hon. member for Kindersley to tell me where it is going to go. You'll say it goes to the credit unions. Yes, it will go to the credit unions. I will have a word to say about the credit unions in a moment. But it will also go to these boys with $1.7 billion. They are saying to us, "Money for bathtubs; money for Saskair; money for goodness knows what." The first time the Conservatives come up with a proposal, what are they going to do with Saskatchewan's heritage fund? They are going to give it away to the chartered banks of Canada. I say we are not going to allow that.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — I am not going to spend any more time on this, Mr. Speaker. The only defence the members opposite have is . . . and I have been in this position myself, mind you not on too many occasions but there are occasions in this House when I have really been caught. I laugh and pretend that I am not really being hurt . . . (inaudible interjection) . . . That's all right; we're in control. You can decide whether we are in control or not. That is what I am going to tell the people of Saskatchewan what your position is on the heritage fund.

Mr. Speaker, I want to tell you that while one ought to consider some form of home-owner assistance financially — there is no doubt about that — by any yardstick of numbers used by the Conservatives, you would not have a heritage fund beyond that once-in-a-lifetime payment to your friends, the chartered banks of this country . . . (inaudible interjection) . . . He laughs. You bet you laugh. You tell this House exactly how your numbers are worked out. You bet you will. You will do it to us, just like you have done it for the last 10 days or the last four years. You don't have the numbers; you don't have the statistics; you don't have the research; and you don't have the political gumption to stand up for the average person in the province of Saskatchewan.

I want to say one other thing before I close. I want to close on this point, my second and last point. It is never to be forgotten, Mr. Speaker, that while Mr. Clark and Mr. Crosbie were in office, when the budget was introduced in the good old nine months, when the new Conservative baby of nine months was born politically — then all of a sudden it

disappeared, because the boys couldn't count. I met the executive assistant during my constitutional travels — Nancy Jamieson. I asked Miss Jamieson, "How in the world could it be that a government lusting after power . . . " They were something like the boys opposite thirsting after power, salivating to get their hands on that heritage fund. They are going to get into the chartered banks and give it out here. "How in the world when the government finally attains it, has its chompers on it, like the Conservatives have, how is it they can't count?" Well, that's another story.

I want to tell the members of this House (let it not be forgotten by the hon. member opposite) that it was when Clark and Crosbie were in office that we saw interest rates go, on a percentage increase, up 25 per cent in nine months. At that rate of increase, at 25 per cent, the Conservative Party would have outdone (can you believe it?) even the current Liberal government in pushing interest rates to preposterous levels at the expense of all Canadians. For nine months we were saying in this House and elsewhere, "Why don't you do something (I am now wrapping up the theme of the speech as I started off) with the basic problem of interest rates, the economy and matters related to it: why don't you get a hold of the Bank of Canada?"

You know, Mr. Speaker, when they get up and speak, they will ignore that nine-month Clark period. It never existed. It is to be wiped out from the memories of everybody. It is, in the words of Nixon, "Non-operative." They'll never even acknowledge that it existed. If they should ever get up, they'll say, "Oh, you know, it's the Bank of Canada. It's the Bank of Canada."

What did they do, Mr. Speaker? The Conservatives reappointed Governor Bouey. That man, Mr. Crosby and that great defender of the farmers, Mr. Joe Clark, the man from High River — they reappointed Gerald Bouey for a new seven-year term of policy so that Mr. Bouey could, for another seven years, follow his policy of high interest rates and the monetary approach of which we are now reaping the consequences and which spawned this bill. They did it. Now, Trudeau is perpetuating it. But they did it — the Conservatives. Not one letter ever has been tabled as to their opposition during that nine months to the Bouey reappointment. They've never done it — not one statement in opposition during Bouey's nine months or to his reappointment. They did it and now, they have the audacity to say that we ought not to be doing this.

Mr. Speaker, I think the hon. members opposite have a big surprise in store for them. I think they have a big surprise in store for them when the next election is called. I say they're going to have a big surprise when they start playing this game with the credit unions. There's a big surprise in store for these new-found supporters of the credit unions.

Mr. Speaker, I wasn't around (many of the members of that ailing, old and tiring Conservative opposition were around) in the late 1920s and 1930s — the Dirty Thirties . . .

AN HON. MEMBER: — You were around.

HON. MR. ROMANOW: — No, I wasn't around, not in any physical or semi-physical embodiment in any event.

Mr. Speaker, I want to leave this as my message about the politics of this province and the politics of this bill (I mean politics in its best word) . . . People came from all over Europe in the 1920s. They didn't know what they were coming to. They came to a flat piece of prairie land. It's just as flat now. They faced everything. They faced the weather; they faced the climate; they faced the political institutions of the day.

Do you know, Mr. Speaker, what they did based on the difficulty there were left in? This is only 40 years ago. This is where the big political error is that these fellows are making opposite because they think it's something people forgot. They don't forget in this province. Forty years ago, you know what people in Saskatchewan did? They formed the co-ops to fend for themselves. They formed the wheat pools to fend for themselves. They formed the National Farmers' Union, the forerunner of the NFU, to fend for themselves. They formed the CCF, now the NDP, to fend for themselves. They formed the credit unions in the 1920s and '30s to fend for themselves when the chartered banks were saying the same things that they're saying now: that Saskatchewan is going to be black-listed with respect to mortgage money. They formed these credit unions to do it themselves.

All of those came from the same history and the same roots And they maintain it. Those Johnny-Come-Latelies opposite have seen from 1944 that tradition of working co-operatively together and building SGIs and SaskTels and crown corporations. People are now going to allow some guy called Dr. Devine to come into the province and tear it all apart? I say, never. They're never going to agree to that, Mr. Speaker. They'll never agree to that. They'll never agree to the reincarnation — call it Reaganomics — of the governments of the 1930s. Who was the last Tory? Bennett. The last premier was Anderson. They'll never agree to the reincarnation of these governments. They've been in the wilderness for 50 years, because they opposed what the people wanted — like this bill. They opposed it. They said, "Loopholes." They said, "You're going to hurt somebody." They said, "Don't do this." They said, "I'm not going to give you any alternatives." They Fancy-Dan this way; they Fancy-Dan that way. They do everything, but when the crunch comes they don't speak for the people.

Why is it they haven't been elected for 45 years? Is it because of some sort of powerful NDP machine? The NDP machine is a bicycle, if you want to know the truth, Mr. Speaker. Do you think they're going to get elected because some guy called Lysak, the president of the PC Party, gets up and says, "You know, it's not ideas, it's not issues which will get the people of Saskatchewan to vote Conservative. It's getting the voters out." Why should the voters bother to come out, if they don't stand up for the people? Why should the voters bother to vote for the Conservatives when they see the Conservatives opposing this kind of bill, when they see this shoddy performance of telling them last night, "Don't pay your bills; let the credit unions suffer," and today saying, "Now I'm concerned about the credit unions." Forty-five years. No, no, no, they're not going to do it, Mr. Speaker. They're not going to do it.

I want to tell the people of the province of Saskatchewan, and I want to tell the good doctor and all of his supporters, all of these doom-and-gloom boys, all these negatives, Dr. Negative and the No-Nos, right there, that we're not part of the wrecking crew. This government and this party are part of the building crew which is the history and the tradition of this province of Saskatchewan.

SOME HON. MEMBERS: Hear, hear!

HON. MR. ROMANOW: — Mr. Speaker, I would have had more to say if I had had

another occasion, which I do not have, on the Speech from the Throne. I want to move second reading of this bill and, in doing so, say that it prevents foreclosures and that it's intended to force financial institutions to negotiate with home-owners to determine a reasonable level of payments for them, given the economic circumstances. We can do no more. All we can do is try, and try the best we can.

If I get challenged in the supreme court again on the constitutionality, I'll gladly take that challenge up any day. I regret that the members opposite are not able to raise their sights, to talk philosophy, to talk policy, or even to support this bill. They, like the Saskatchewan branch of the Canadian Bankers' Association, are doing everything to attack, to cast doubt on this bill. I regret that they've chosen to misrepresent the bill. I regret sincerely that they advise the people not to meet their mortgage obligations. I regret very much that they can't join us in this great tradition of protecting and building for the people of Saskatchewan.

Mr. Speaker, I move second reading of The Home-owners' Protection Act.

MR. ROUSSEAU: — Mr. Speaker, what started out to be second reading of a bill that is a very important bill to the people of Saskatchewan ended up being the best political speech I have ever heard the Attorney General give in his life.

SOME HON. MEMBERS: Hear, hear!

MR. ROUSSEAU: — But I want to remind the Attorney General of the definition of a politician that I referred to in this Assembly just two days ago, and that is: one who engages in politics for personal or partisan aims, rather than for reasons of principle. That is exactly what the Attorney General expounded today in this Assembly. So you shouldn't really get too carried away, gentlemen, until you know what it's all about.

Mr. Speaker, we take this bill as being very serious business of this House. Some of the ridicule and some of the comments, the jokes and the laughs coming from the government side of the House, have been a little less than serious, including some of the misrepresentations by the Attorney General in many of the statements he has made today, on radio and to the public, as well as to members of this Assembly.

Mr. Speaker, I asked the Attorney General in question period today about the definition (actually, I asked for clarification) of the intent or the meaning of the bill and his answer was, "My interpretation of the bill . . . " It seems odd that he would not know the real interpretation of the bill; he wrote it, but he seemed confused as to what it really means. So I have asked him to explain: is the interest deferred until such time as the mortgage is going to be renewed or is it going to be frozen? . . . (inaudible interjection) . . . Oh, I'll give you a case history; I'll give you a hypothetical case. By the way, the hypothetical case is the one he used this morning with the host of the talk show he was on, whose mortgage comes due in March, 1982. I can't recall the exact figures, but we'll say the interest was 10 per cent, and we will say that the mortgage rates will be 17 per cent. Mr. George Young, who happened to be the host, has the option to pay the new interest rate of 17 per cent or he can wait until January, 1983, and decide then what he is going to pay, whatever the rates happen to be at that time. They may be down and they may be up.

The question was: who then pays the difference between the 10 per cent and the 17 per cent from March, 1982, to January, 1983? Who absorbs it?

AN HON. MEMBER: — The banks, the lenders.

MR. ROUSSEAU: — Okay, that's the answer I wanted, but that is not what you said on the radio this morning. The answer you gave, and the impression given to Mr. Young (I talked to the secretary, and I listed to the tape) and the impression that was left with me, because I listed to it after, was that they would have to pick it up in January, so it would be interest on interest, plus adding on the principle as well.

So now the Attorney General says that it's frozen. In the case of the lending institutions, whether they be credit unions, banks, trust companies, agreements for sale, they will be stuck with the difference. Now what really happens at that point, if that's the case, is that the government has now decided to play the role of the stockbroker with my property, because it has convinced me, and perhaps other people who have a 10 per cent, 11 per cent or a 12 per cent mortgage, that it is 17 per cent today, but it might be 14 per cent in January, so we had better wait. In January, 1983, the rate might very well be 23 per cent or 24 per cent. So while I have the opportunity to renew my mortgage at 16 per cent or 17 per cent in March, April, May, June or July of next year, I gamble because the government is taking the role of my stockbroker. That really is what this bill is all about. It is giving me advice; it is advising me to hold off. "No one can hurt you; no one can foreclose on your property. Hold off." So I hold off and all of a sudden I find that I'm stuck! I didn't win; I lost.

There are no provisions that I know of in this bill to avoid that. That's right. I'm a loser, as the Minister of Revenue says, I'm a loser and so is everybody else in this province. Well, I don't have a mortgage on my home, Mr. Speaker. I'm fortunate. I paid mine off a few years ago and I'm not faced with the difficulties of the home-owners today who are carrying a mortgage on their property.

I can't say the same for my children and I can't say the same for a lot of other people in this province. They're unlucky. In freezing those rate, the Attorney General says that we are only concerned that the banks my lose some of their profits. We'll come back to that in a minute. But I look at $750 million worth of mortgages held by credit unions in this province, representing 50 per cent, not 20 per cent or 25 per cent as the Attorney General indicated. He's totally, completely wrong in his figures.

AN HON. MEMBER: — It's 47 per cent.

AN HON. MEMBER: — It's 30 per cent to 33 per cent.

MR. ROUSSEAU: — You said 30 per cent to 30 what? You don't know. Obviously you haven't done your research, Mr. Attorney General. However, let's take a look at what that does to credit unions. If most mortgages to be renewed at this point in time are at the 10 to 12 per cent range, those credit unions are told, "That's it. For the year 1983, leave it alone; you can't touch it." And I must suggest to you, Mr. Attorney General, that most people in their right minds would probably take that attitude. As a matter of fact, some credit unions today are running mortgage rates at 20, 21, 22 per cent.

For example, let's use 8 per cent as a figure. On the mortgages that they have in this province, 8 per cent of $750 million would be $60 million that those credit unions would lose, because let's keep in mind that their money is coming from their depositors. They have to pay to their depositors competitive market rates because they can't borrow the money at 10 per cent. You wouldn't invest your savings at 10 per cent today when you can get 18 per cent. I don't think even the Attorney General would be

that stupid. So the people who invest and deposit in the credit unions are going to be depositing at the going rate, at the competitive market, which is 18, 19, 20 per cent. Now to pay that and at the same time only receive from those people 10, 11, or 12 per cent — it doesn't take a genius to figure out what it's going to cost them. Their loss, without administration, is going to be in the vicinity of $60 million.

But there is another individual I am concerned about in this province, Mr. Speaker, for whom the bill does absolutely nothing and that is the person who renewed his mortgage within the last 12 months. There is that person who renewed at 20, 21, 22, 23 and, I think, as high as 24 per cent during 1981. He's stuck. He doesn't have the protection of this bill, except for not having to make a payment until 1983. However, in the Attorney General's own words, "It's the last amount that is fixed on the mortgage rate that is frozen." If that is 23 or 24 per cent, that's what he is going to owe in 1983, retroactive, plus interest on the interest. What has this bill done for that person? Nothing, absolutely nothing. That person is still in danger of losing his home, facing financial disaster, and is, in fact, in dire straits. There is no help for him at all.

We put forward a suggestion during question period and I put it to the Attorney General once again. We suggested that the Attorney General, through his bill, could have provided real assistance; in other words, Mr. Speaker, put up or shut up; in other words, Mr. Speaker, put up the bucks. He immediately says, "Oh, we know why you want to do that. You want to increase the profits of the banks." Let me tell you, Mr. Speaker, who is really increasing the profits of the banks. Do you know why the banks are making the kind of profits they are today? Because of governments like that one opposite which is borrowing from them at the rate it borrows. The millions and billions of dollars that are being borrowed by governments through the banks account for a lot of the profits being made by the banks. He doesn't talk about that. I see one member over there laughing about it.

I will put forth a suggestion to the Attorney General as to how it could be done very simply. It would cost some money, yes, but this province can afford it. The government of this province can afford it, Mr. Speaker. Very simply, it is an accepted fact that 2 per cent or 3 per cent over the inflation rate is acceptable on a mortgage. It wouldn't be acceptable to me and I know I wouldn't like to pay that kind of money, but economists claim that 2 to 3 per cent over the inflation rate is acceptable. Let's say the inflation rate was 12 per cent, so we could take the figure of 14 or 15 per cent as being acceptable interest rates for mortgages, which would make sense. Perhaps it would still be a hardship, and perhaps there are some who would face some extra difficulties, but for the majority it would make sense and would be acceptable that a 14 or 15 per cent interest rate be pegged by the government, and the rest of it could be subsidized in the form of a rebate by the provincial government.

SOME HON. MEMBERS: Hear, hear!

MR. ROUSSEAU: — We would be looking at 2, 3 or 4 per cent as the amount of the subsidy. At the rate of 3 per cent (and I don't think it would be that high) on $1.5 billion in outstanding mortgages, which I think is about the figure that is outstanding in the province of Saskatchewan, it would cost the government $45 million — little more than they've spent on the Sask Tel building, half of what Norcanair is going to cost them when they complete that deal and after they take their losses on that, a fraction of what they have invested in land bank, a quarter of what they're talking about putting into Marathon Oil, a fifth of what they're talking about putting into Gulf Oil — a small

amount, particularly when we consider that we have an extra billion dollars in revenue coming through the energy agreement. This would provide real assistance to the home-owners of Saskatchewan.

You may ask, Mr. Speaker, why should other people subsidize those people who have mortgages? I don't have a mortgage, as I said earlier, and I don't think the Premier has a mortgage either. I don't think the Premier would object . . . I know he has a MURB (multiple unit residential building); he has a mortgage there; he has one of those tax loopholes. I don't think he would object to seeing mortgagees or mortgagors in this province receiving that kind of a rebate or subsidy or whatever you want to call it. It wasn't those people, Mr. Speaker, who created inflation. They are not at fault. It is not their responsibility.

I was lucky. When I had a mortgage, it was at 6 or 8 or 9 per cent. the last one, I think, was 9 per cent. It was a lot of money even then. But if I had to pay a 18 or 20 per cent mortgage today, I would be very, very upset. I wouldn't think that it was my fault if I had to pay 18 or 20 per cent. I don't think it is the fault of the people of Saskatchewan today who are forced to pay those kinds of rates. The fault lies with governments, because it is governments that create inflation, not the people of the province. They may well say that people should show restraints, but the restraints should start with governments, and not with the people.

SOME HON. MEMBERS: Hear, hear!

MR. ROUSSEAU: — I know that the Attorney General gave us his usual rhetoric and political speech a while ago about our federal government being in power for nine months. But you know, Mr. Speaker, it was our government in Ottawa and Mr. Crosbie's budget which introduced a mortgage deductibility program, which would have been real assistance to the people of Saskatchewan. They voted against it, Mr. Speaker. They were the ones who introduced the motion to defeat the Clark government in Ottawa two years ago. It was their government. I was they who voted against a mortgage deductibility program. So today they are trying to save face by introducing something as meaningless as the bill which was introduced.

I will close my remarks, Mr. Speaker, by saying this: the accusations by the Attorney General about our leader, Mr. Devine, give me a little bit of trouble. You indicated, first of all, that he came to this province . . . (inaudible interjection) . . . Yes, you did. Check *Hansard*. Mr. Devine (Dr. Devine if you like) was born and raised here. His children are fourth generation Saskatchewanians. The Attorney General in his closing remarks said, "This is what we are putting forth. I can do no more." These were his words. "I can do no more" but put up this kind of legislation and leave the people to fight and fend for themselves. The people have to pay eventually and ultimately the cost, the increase, and the rates which they are going to be faced with.

I beg leave to adjourn debate.

Debate adjourned.

GOVERNMENT MOTIONS

Constitutional Agreement

MR. BLAKENEY: — It is an honour and a privilege for me to open this debate on the

legislative consideration of the parliamentary resolution dealing with the constitution. The purpose of this debate is to give the views of the members of this Assembly on the constitutional accord reached November 5 of this year between the federal government and nine of the ten provinces, and amended in the days following with the agreement of all the original participants.

It is my belief that the accord is broadly acceptable to members of this House. If I had thought otherwise, I can assure you that this matter would have been raised earlier so that we would have had an opportunity to express a point of view.

I say this debate is an historic debate because after more than 114 years, we have been able to agree to bring our constitution home from the imperial parliament in London. We have been able to agree on the rules which will allow this country to amend that constitution once it has been brought to Canada. With the final passage of the Canada Act flowing from this constitutional resolution which has now passed parliament, Canada will enter a new era. The Canada Act will be passed by the imperial parliament, and that, I expect, will be the last legislative act of the imperial parliament dealing with the Canadian constitution, and perhaps dealing with any Canadian issue — certainly dealing with any Canadian issue of consequence.

We will be a fully independent nation in law as we have been in practice for many years. We will have the rules in place to renew our constitution, to maintain it and the values which it enshrines as part of the vital life of Canadians.

As we build for tomorrow, I am proud to say that this constitutional accord remembers and respects our past. Nations, like individuals, must build upon what has gone before and must understand their past if they are to shape their future with any degree of success. This is why I am proud to be able to say, Mr. Speaker, that this accord renews the spirit of federalism. It does not replace it; it builds on what has gone before. I emphasize that, because during the debate leading to this day, federalism as we know it was often in danger. Throughout, there had been competing visions of Canada. I am convinced they were not positions taken for the sake of political posturing. I feel these were honest disagreements over basic beliefs sincerely held. I feel just as strongly that there was only one vision throughout this whole debate with respect to the spirit of Canadian federalism as we know it. I say to you, Mr. Speaker, that vision, that path, is the one which Canada’s political leaders have chosen in the constitutional accord which we are being asked to approve.

In 1867 it was recognized that in a country like Canada only a federal form of government could work. Only a federal state could achieve union while accommodating the great distances, the fierce regional loyalties, the linguistic and cultural differences, and the distinctive economies of the three uniting colonies soon to become the first four provinces of Canada. Simply put, only a federal system could achieve unity without imposing a totally unacceptable uniformity.

Our federal system has been tested many times. There have been periodic shifts in the balances between the two orders of government — a much strengthened federal government in times of war and travail, and generally strengthened provincial governments in times of peace and prosperity. Canada has registered the excessive centralization which has afflicted many states, just as it has resisted the decentralization which has crippled others. Our federal system is uniquely adapted to Canadian realities.

The wisdom of the Fathers of Confederation is perhaps even more apparent today than it was in 1867. The distances separating us have increased dramatically as Canada has grown from four provinces to ten. The linguistic duality evident in 1867 is still very much with us. Our cultural and ethnic diversity has grown enormously with the arrival of new Canadians from all parts of the world.

This is a fact which Saskatchewan people recognize, perhaps better than most. Multiculturalism is not a bureaucratic buzz word in this province; it's a way of life. We're the only province in Canada in which people of British and French origin, even when taken together, constitute less than half the population.

It was perhaps this fact more than any other, Mr. Speaker, which convinced the Government of Saskatchewan that any attempt at constitutional reform had to preserve and strengthen our federal system, and not replace it. We recognized the need for a strong central government to manage the national economy, to redistribute wealth among regions and individuals, and to promote Canada's interests abroad. At the same time, we recognized the need for strong provincial governments to respond to the distinctive needs, to meet the special challenges, and to seize the unique opportunities of each province.

That is why we did not agree with those who saw the purpose of constitutional reform as an attempt to weaken either the federal government or the provincial governments. Our goal was not to establish the dominance of either over the other. It was rather to strike a new balance, more useful to contemporary Canadian society, a balance better able to preserve and build the unity of this country. This balanced division of powers between the central government and the provinces has been recognized as an essential feature of Canadian federalism since 1867. From the earliest days of confederation, constitutional amendments which have affected the rights and powers of provincial legislatures have been subject to provincial consent.

By 1931, the custom of provincial consent, what the lawyers would call the constitutional convention of provincial consent, had become firmly established, so firmly that failure to reach agreement on an explicit amending formula in that year prevented patriation of the British North America Act. The Statute of Westminster, which the imperial parliament had designed to terminate the colonial relationship between all of the dominions and the United Kingdom, had to be changed to leave the power to amend the British North America Act with the imperial parliament in London.

It had to be changed because we Canadians could not find a way to amend it which effectively protected the rights of both the federal government and the provincial government in the amending process. It was recognized by all that to transfer the power of amendment to Canada, in the absence of an agreed formula, might be construed so as to place in the hands of the federal government the unilateral power to amend the constitution. It was acknowledged by all that that would be a violation of the Canadian constitutional principles, and as a result, the federal government and 10 provinces asked that this change be made in the Statute of Westminster in the process of its being enacted.

The Statute of Westminster, because of this change, gave the imperial parliament in London effectively a trusteeship role with regard to Canada's constitutional system. It was a role given to the imperial parliament with the agreement of the Canadian federal government and all of the provinces. It was never a role to be discharged at the request

of one level of government without due consideration of the others. This view of the Statute of Westminster was formally acknowledged by the federal government in 1965 in a paper on constitutional amendment, published under the authority of the Hon. Guy Favreau, then Minister of Justice.

His paper identifies four general principles, or conventions, governing constitutional amendment. The fourth and most important principle stated in part:

> The Canadian parliament will not request an amendment directly affecting federal-provincial relationships without prior consultation and agreement with the provinces.

That was the situation in 1965.

Since 1965 there have been two major attempts at rewriting Canada's constitution. The first, which culminated in the Victoria conference in 1971, and which drew up the document known as the Victoria Charter, was very nearly successful. In the end, agreement was not reached because, for Quebec at least, the proposed package of constitutional reforms was too limited in scope. I'll have an opportunity to deal with that aspect of the traditional position of the province of Quebec in a moment.

The second attempt began in earnest in 1976, and culminated on November 5 of this year in the constitutional accord of that date. Perhaps one would say it culminated in the parliamentary resolution which has just been passed and forwarded to the parliament at Westminster. The federal government introduced its own plan for reform in 1976 in a white paper called "A Time for Action" and a constitutional amendment bill which came to be known as Bill C-60.

The provinces felt the approach suggested by the federal government was too narrow, because it did not address the question of the balance of power between the two levels of government. At a federal-provincial conference in the fall of 1978, first ministers were able to agree on a list of priority items for reform. When the first ministers met again in early February 1979, excellent progress was made on that list but no global agreement was reached.

Then we had an interregnum. Two federal elections and the Quebec referendum intervened. It was the referendum which sparked renewed interest in bringing all of the talk about constitutional reform to some sort of an effective conclusion. I, like many other first ministers, went to Quebec in the days prior to the referendum. I attempted to show the people of Quebec that their desire for constitutional change was shared by other regions of Canada, particularly western Canada. As I said in a speech to the Montreal Board of Trade on April 8 of that year, and I quote, Mr. Speaker:

> The sense of urgency, of impatience and of frustration is felt as keenly in my part of Canada as it is in Quebec. We are prepared to agree to very significant changes which would help Quebec realize its aspirations as part of a bargain which comes to grips with the aspirations of other regions of Canada. A "no" vote is not a vote for the status quo. The status quo is not acceptable to Saskatchewan and, I believe, to a majority of Canadians.

Following the referendum, the continuing committee of ministers on the constitution was asked to spend the summer of last year in preparation for a crucial first ministers' conference in September. We will recall the genesis of that, Mr. Speaker. There was a

federal-provincial conference in June at Prime Minister Trudeau's residence, at which we mandated the continuing committee of ministers on the constitution to work through the summer to arrive at a package which could be considered by first ministers at a conference in September. Five weeks of intensive negotiations followed that June meeting at the ministerial level.

Mr. Speaker, it could be noted that Saskatchewan's Deputy Premier and Minister of Intergovernmental Affairs, Roy Romanow, acted as co-chairman of these negotiations — he representing the provinces and the Hon. Mr. Chretien representing the federal government. Mr. Romanow was a key provincial spokesman then, as he has been throughout the difficult negotiations which culminated in the accord which is now before us. His role is one of which all Saskatchewan people can be proud.

As we all know, Mr. Speaker, the September 1980 first ministers' conference failed to reach agreement. It ended with statements of the concept of federalism held by a number of participants. We heard statements which suggested that the Parliament of Canada should make the decisions dealing with the constitution on the grounds that parliament represented all Canadians and it was therefore the appropriate forum. Other views suggested that the 10 premiers acting as a group could speak for Canada on constitutional matters, since Canada was formed by provinces coming together and the bargain could be changed by the unanimous consent of the provinces.

Neither of these views was acceptable to Saskatchewan; neither reflected our understanding of federalism. It is, of course, true that parliament represents all Canadians, but not for all purposes My MP has no authority to speak for me on matters of education, for example, nor on all matters respecting the constitution. The more telling argument against the simplistic parliament-should-decide position is that in parliament a simple majority prevails. There is no protection for regions with smaller populations against the big battalions of Ontario and Quebec. If this position prevailed, federalism would cease and all major decisions would be made by simple parliamentary majority. That defies both the traditions and the nature of Canada.

On the other hand, Canada is something more than a creature of the provinces. However Canada may have been formed historically, Canadians are a people with a national identity, as well as regional identities. Its federal government directly represents Canadians because we directly elect it and it represents us as Canadians, not merely as citizens of our own province. So as with any federation, what is needed for constitutional change is the consent of the central government representing the national view and provincial consent representing the regional view.

We did not contend in September 1980, or at any time since, that the consent of all provinces was necessary to constitute that provincial view. The position that the consent of all provinces was necessary was widely held. But we felt it to be wrong both constitutionally and in the sense of what Canadians felt and wanted of their country. I stated our view on this general issue in capsule form at the close of the September 1980 conference. It's useful, Mr. Speaker, to reflect on what currents of opinion flowed during this period.

The position of the Government of Quebec throughout the 1970s and indeed earlier was that patriation of the constitution should not be the first step in constitutional reform but, in the words I've heard Quebec spokesmen often use, it should be the "crowning achievement." By this they meant that matters dealing with patriation should not be dealt with in isolation from matters dealing with the legislative power of

the province of Quebec and the legislative power of the Parliament of Canada. This is what lawyers called the division of powers. Quebec and other provinces, including Saskatchewan, felt that, if we did not consider constitutional amendment as a package, important questions dealing with the division of powers would not be addressed.

And this was the position of virtually all of the provinces. From time to time, Ontario took a different position, saying that it would favour simple patriation or patriation with an amending formula. But by and large, the overwhelming view of the provinces was that we should consider constitutional reform as a package. At the Premier's conference in Regina in 1978, this point was stressed in the final communiqué. It was in this spirit that the many studies on constitutional reform (Pepin-Robarts, the Canadian Bar Association, the Ontario committee and others) were conducted, and it was in this spirit that the constitutional conferences of 178 and 1979 were conducted.

It was also in this spirit that I and other Canadian political figures entered the Quebec referendum debate. The reform of the Canadian constitution talked about was one to meet the aspirations of the people of Quebec. By this I mean to say that the reform of the Canadian constitution talked about during the Quebec referendum was one to meet the aspirations of the people of Quebec. It dealt not particularly with patriation and not with the charter of rights, which was of no particular interest to Quebec people, but with legislative power for the National Assembly of Quebec.

Nobody should believe that the accord we have now reached deals with these aspirations or with the promise of reform held out to the people of Quebec. I want to make that point, because there is somehow a suggestion that during the Quebec referendum constitutional reform was promised and now it has been delivered. The constitutional reform which was delivered bears no resemblance to the constitutional reform which was held out to the people of Quebec during the Quebec referendum. If those reforms are to come about, they will be part of later steps. This point I have certainly attempted to make with some force on many occasions.

The provinces stressed the need for a package of reform to contain not only patriation and not only the provisions for human rights desired by the federal government, but also reforms to the division of legislative powers. The federal government appeared to accept that view up to the end of February 1979 conference. When negotiations were resumed after the Clark government period and the Quebec referendum, there appeared to be a distinct change of approach on the part of the federal government. We heard much more resistance to the idea of a large constitutional package, much more scorn heaped upon those who would trade fish for freedoms, and much more reference to greedy premiers. In effect it was a retreat from the proposal that we have — a package of reforms which includes the division of legislative powers — and I would say a retreat from the undertakings held out to the people of Quebec by federal spokespersons during the referendum campaign.

It was with this background that we entered the September 1980 conference. One does not need to be a cynic to believe that that conference was doomed to fail. We had the federal government interested primarily in patriation, an amending formula and a charter of rights, which included minority language rights. We had provinces interested in patriation, an amending formula and the reform of the division of powers. We had Quebec, which was determined to resist patriation until the division of powers questions were addressed and resolved. Those were the underlying bases of the

September conference and, as we all know, Mr. Speaker, that conference failed to reach agreement.

Following the failure of the September 1980 conference to reach agreement, the Prime Minister decided to act unilaterally, without provincial consent. He proposed to use our colonial status, in a legal sense, as a method for acting unilaterally. In a practical sense, he asserted the parliament-can-decide doctrine of Canadian federalism. Mr. Speaker, the Government of Saskatchewan has never adhered to that doctrine. Few if any reputable parliamentary or constitutional scholars have adhered to that doctrine, but the Prime Minister was putting it forward.

When he acted in this way, he changed the nature of the constitutional debate. Up to that time, it had been a debate on what changes we should make in the constitution — a question of content. With the Prime Minister's act of October 1980, a new element was added, the element of how constitutional change was to be brought about — a question of process. From that day on, Mr. Speaker, when the Prime Minister announced his unilateral proposal on October 2, 1980, the Government of Saskatchewan made it clear to all, over and over again, that we opposed the process used by the federal government.

We had an opportunity for a couple of days to look at the constitutional resolution. Our first press conference expressed our opposition to the process, and every subsequent press statement dealing with process expressed our opposition. We said repeatedly that unilateral action by one level of government, against the express wishes of the other, was not compatible with our view of Canadian federalism.

Having stated our opposition to the process, we were faced with the crucial question: what's the next step? You will recall, Mr. Speaker, that in October of last year, the politically popular step would have been to choose sides. Shortly after the Prime Minister's announcement of unilateral action, Ontario and New Brunswick announced that they supported the federal government, both with respect to the content of the package and with respect to the process being pursued. At the same time, six provinces announced that they opposed unilateral action and would fight the Prime Minister's proposals to the bitter end. Their opposition was based upon their disagreement with the process. As to content, they had differing views. They were soon joined by a seventh province, Nova Scotia. All around us, Mr. Speaker, governments were taking stands, declaring an enemy, and refusing to negotiate. This struck us as a "High Noon" approach to constitutional politics, an approach that suggested an issue as complex as this country's constitution was all black or all white. There was no room for negotiation or compromise in these two positions.

Mr. Speaker, the Government of Saskatchewan rejected that approach. We decided that the best way to proceed was to try to convince the federal government to change its package so it could be supported by other provinces. In this way we hoped to change a unilateral action into one based on consent. The new package and a new procedure would then be consistent with our approach, both as to content and as to process.

Let me point out, however, that on the matter of what process was appropriate and constitutional, our position was different from that of any other government. The federal government claimed that it could legally and properly act without the support of any provincial government. Ontario and New Brunswick agreed. That's the parliament-can-act-alone view of the constitution which the Prime Minister had articulated at the September 1980 conference.

On the other side, six, and eventually seven, provinces claimed that all eleven governments must agree before the constitution could be changed. This was the position of British Columbia, Alberta, Manitoba, Quebec, Prince Edward Island, Newfoundland, and then Nova Scotia. The all-eleven-governments-must-agree view was advanced by those seven provinces, and this was consistent with the confederal view of Canada, i.e., that Canada is a creature of the provinces, and to change the contract, to change the compact, all eleven governments must agree.

This is certainly an articulation of the compact theory of confederation which is consistent with the confederal view of Canada and, indeed, this view was argued by those seven provinces in the various constitutional court actions.

Saskatchewan said, "You are both wrong." We said that what is required to change the constitution is a double majority — a majority in the House of Commons on the one side, and a consensus or a majority of the provinces on the other side. We said a majority of the provinces, Mr. Speaker, not unanimity.

Mr. Speaker, this was not an easy or popular position to take a year ago. I can recall the abuse which this government took from members opposite on that position. I quoted a number of examples during my contribution to the throne speech debate on December 2, Mr. Speaker. The Saskatchewan government was accused again and again of sitting on the fence in the constitutional debate. I, personally, was characterized as a Neville Chamberlain for suggesting that there was a third option between unilateral action and unanimous consent, and that some other process was appropriate.

I had taken the view that the federal position was wrong, and that the seven-province agreement was wrong. Members opposite said that we were sitting on the fence when we took that position and declined to line ourselves up either with the federal position or with the seven-province position.

We took this abuse for many months, as we attempted to develop a consensus on constitutional reform. When the federal government made it clear that there would be no further changes to its resolution in February of that year, we knew that there was no consensus to be had on such a package, so we again stated our opposition to the process and, accordingly, to the entire constitutional package.

Although our attempts over four and one-half months, from October 2 to February 19, failed to achieve a consensus, I make no apology for our effort. As the supreme court was about to prove, our position was the right one for Saskatchewan, and the right one for Canada.

SOME HON. MEMBERS: Hear, hear!

HON. MR. BLAKENEY: — By February, court challenges to the federal resolution were already underway in various provinces. May I say, by way of interjection, Mr. Speaker, that I'm attempting to outline the historic narrative, and I hope hon. members opposite, who perhaps have not been fully following all the narrative, will take the opportunity to improve their grip on the subject at hand . . . (inaudible interjections) . . .

MR. SPEAKER: — Order! The Premier has the floor.

HON. MR. BLAKENEY: — Mr. Speaker, by February court challenges to the federal

resolution were already underway in various provinces. Saskatchewan joined the other seven provinces to constitute the so-called gang of eight in opposition to Ottawa's unilateral process. However, the basis of our court challenge was very different from that of the other seven provinces — again reflecting our vision of federalism.

Before the supreme court, these seven provinces argued that the federal government could not amend the constitution without the unanimous approval of the ten provinces. On the other side, Ottawa and the two provincial allies, Ontario and New Brunswick, defended the federal government's right to act unilaterally.

Once again, Mr. Speaker, Saskatchewan stood alone. We argued before the supreme court that constitutional tradition and practice (what is commonly called the constitutional convention) required substantial provincial agreement for change, but not unanimous consent.

We argued for a third option between unilateral action on the one hand and unanimity on the other. As could be expected, Mr. Speaker, our position came under attack both from the federal government and its allies and from the seven provinces. Once again we were accused of indecision — not because we hadn't made a decision, but because people didn't like our decision. We were accused of hedging our bets, of sitting on the fence. Mr. Speaker, as I've said many times since then, when the supreme court released its decision on September 28 of this year, we had company of that fence. We had company in the form of the Supreme Court of Canada.

SOME HON. MEMBERS: Hear, hear!

HON. MR. BLAKENEY: — Our views were accepted and the arguments of the rest of the gang of eight were rejected — rejected 100 per cent. On the narrow legal question, they lost. We also lost on the narrow legal question. On the broad question of constitutional convention, the gut question before the court, they lost; the federal government lost; Ontario lost; New Brunswick lost. Saskatchewan, and Saskatchewan alone, won.

SOME HON. MEMBERS: Hear, hear!

HON. MR. BLAKENEY: — If we had given in to pressure from members opposite to support fully the position of the other seven provinces, Saskatchewan would have lost too — 100 per cent. I also submit, Mr. Speaker, that if Saskatchewan's third option had not been before the supreme court, there's a very good chance that the federal government would have had a total victory. I'll say a little more about that in a moment.

After all, the supreme court decided that the federal government's constitutional resolution was legal because the courts don't have power to stop any legislature or any parliament from passing a resolution. It was legal in the sense that a resolution of this House would be legal if we said that President Reagan should no longer be the President of the United States. It's perfectly legal — just of no effect. No court would have the power to set aside that resolution.

The court did not have any power to declare the parliamentary resolution illegal, but without the Saskatchewan position before it, it is entirely likely that the supreme court would have found the federal resolution was constitutional, because unanimous consent was not required for such an action. It's likely that the issue would have been dealt with as it was in the minority judgment on the constitutional issue: the Laskin-

Estey-McIntyre judgment. Those three judges characterized the question as one of whether unanimous provincial consent was necessary. That's what they said the question was before the court. They answered in the negative.

If the Saskatchewan position had not been argued, if there hadn't been an argument before the court to the effect that the question could be read another way, could be read as if provincial consent didn't mean unanimous consent but broad consensual consent, then I think the provinces would have lost and lost completely. If it hadn't been argued, it's difficult to resist the conclusion that the Laskin formulation of the question would have been accepted and that the answer would have been the same. Laskin said, with his two colleagues, that both as to law and as to constitution, the federal government can act unilaterally. He said it because it doesn't require unanimous consent of the provinces. He said those were the only two issues before the court. They would have been, too, if Saskatchewan hadn't been there with its argument.

When the supreme court pondered the question of whether or not there is a constitutional convention which demands provincial agreement for certain changes, here's what the majority judgment said about the Saskatchewan position (I'm reading from page 17 of that majority judgment) . . .

AN HON. MEMBER: — We're waiting with bated breath.

HON. MR. BLAKENEY: — Well, Mr. Speaker, members opposite do not wish to hear this. I suspect that if I had been as wrong as many times as they have on this issue, I would not want to hear it either.

SOME HON. MEMBERS: Hear, hear!

HON. MR. BLAKENEY: — I quote:

> Counsel for Saskatchewan submitted that the convention does exist and requires a measure of provincial agreement. Counsel for Saskatchewan further submitted that the resolution before the court has not received a sufficient measure of provincial consent. We wish to indicate at the outset that we find ourselves in agreement with the submissions made on this issue by counsel for Saskatchewan.

On page 24, the majority judgment went on to say:

> In negative terms, no amendment changing provincial legislative power has been made since confederation, when agreement of a province whose legislative powers would have been changed was withheld. There are no exceptions.

Mr. Speaker, that crucial point, adopted by the judges, is a direct quote from page 14 of the Saskatchewan factum, lifted out word for word. Throughout, the key points adopted by the majority judgment are in agreement with the arguments put by Saskatchewan. Not on every point, but on the key issues, the court adopted our arguments and the argument of no other one of the litigants.

Mr. Speaker, the supreme court judgment was a very, very important part of this process. It provided the constitutional debate with a whole new set of rules. When the

court found that the federal government resolution violated the very nature of federalism by flouting constitutional convention, it had a profound effect. It was no longer possible for the government in Ottawa to believe that it could pass a resolution and sent it off to Westminster to have it passed quickly and easily. That option was gone for them. On the other hand, it was no longer possible for a single province to believe that it could hold up constitutional change. That option was gone.

As I said in my opening statement to the first ministers' conference in Ottawa on November 2:

> The tyranny of unanimity was but a ghost of conferences past.

A good line and, furthermore, true. And because of that, Mr. Speaker, we made progress. The supreme court decision was a giant step forward in resolving issues surrounding the process. One interpretation of the supreme court decision was that the court was telling the politicians to get back to the bargaining table with the new and more flexible rules and arrive at agreement which was broadly based among all the governments of Canada before sending anything off to Westminster. That is certainly one interpretation and not an unfair interpretation.

Certainly it was clear the Canadian people wanted this issue resolved and they wanted it resolved in Canada. They understood but deplored the necessity of all the constitutional activity in London — the furious lobbying by federal and provincial governments (including our own government) with the parliamentary committees of the British parliament, the visits with British MPs, the visits of MPs to this country, and all the press stories.

Certainly, if the federal government proposed to act in a way which we felt was clearly unconstitutional, then Saskatchewan had no alternative but to act with all the weapons available to us, including action in London; act we did. We mounted a very, very considerable lobby, which began to be highly successful after the supreme court judgment, and after the impact of it was understood at Westminster.

We considered but did not use mass advertising against the federal initiative. I freely admit that we prepared ads, but hoped that we would never have to use them, and ultimately did not use them. We co-operated closely with the other seven provinces of the gang of eight in resisting the process being pursued by the federal government. The meetings were many and the moods were numerous. I need not recount them all at this time. It is an interesting story for someone who is concerning himself with the process of constitutional change, but it would burden the House to deal with them one by one. But in any event, the supreme court decision broke the logjam, and new opportunities for compromise appeared.

Mr. Speaker, it is the view of the Saskatchewan government that the constitutional accord now before this Assembly contains much which the people of this province and the people of this country can be proud. First, it provides for patriation; that is, after 114 years, Canada will now be able to bring home its constitution and change it. It will be Canada's constitution in law as well as practice. Never again will this country's constitutional changes be the topic of debate in another country's parliament. The accord also provides Canada with a flexible and equitable formula for making future changes to the constitution. A little later on I want to talk about this amending formula and how it came into being.

The flexibility and fairness of the amending formula will be a key to the success of the next round of negotiations on constitutional change. The formula contained in the accord says that all future constitutional amendments will require the approval of parliament and seven provinces with at least 50 per cent of the population of Canada. No province will have a perpetual veto over changes under this amending formula. But at the same time, if any future amendments take away rights from a province (for example, the right to ownership of resources), the province will be able to opt out of that change.

In the past, the Prime Minister and others have expressed grave concerns about this opting out provision. Some have called it “separation on the instalment plan” or “incremental separation.” I think that time will prove this view incorrect. I ask the proponents of this theory to think for a moment. First, if it had been in effect since 1867, it appears that it might have been possible to use this opting out proposal four or five times in 100 years. But can these proponents, in all honesty, provide me or this Assembly with a list of rights which they can say that seven provinces in Canada would be willing to cede to the federal government? Because that is what it would take even to bring this opting out proposal into potential use.

Nothing happens until seven provinces, with 50 per cent of the population, agree that a power now held by the provinces can be exercised by the federal government. That is not going to happen every day of the week. Unless it happens, opting out cannot even become a possibility. We have to have (and I am going to quote the words of the resolution):

> . . . a change which would derogate from the legislative powers the propriety rights or any other rights or privileges of the legislature or government of a province.

If I could be frank for a moment, Mr. Speaker. Considering the recent history of constitutional negotiations in this country, I cannot think of one substantial right which seven or more provinces, with at least 50 per cent of the population, would want to cede to the federal government. Cases can be made, of course, for some change in constitutional rights that may affect, let us say, pensions, and that might not be a bad idea. It would be no great difficulty if the province of Quebec, for example, did opt out. It is already effectively out of the Canada Pension Plan. My point is that this opting out provision will rarely, if ever, come into play. The only reason it’s there is to prevent the rest of Canada from taking a right away from one or two provinces through constitutional amendment.

So, Mr. Speaker, I obviously reject any suggestion that this opting out provision is going to lead to checker boarding in Canada. I was always kind of fascinated with that argument, anyway. And I tried to understand what people meant when they argued that this was going to checkerboard Canada.

Let me use an example. Suppose it was decided that university education, which is now a provincial responsibility, would be transferred to the federal government. We now have ten, perhaps eleven systems of university education or post-secondary education, depending upon what exists in the Northwest Territories and the Yukon and whether you can call that a system. Any proposal to transfer those powers to the federal government would have to see seven provinces agree and therefore, at maximum, three provinces disagree. We now have eleven system of university education. We can’t end up with more than four — the federal system, to which seven provinces have

transferred their powers, and three provinces which did not — at maximum.

Now, the argument that changing a system from eleven systems to four systems is causing Canada to have a checkerboard constitution, defies my understanding of what they are talking about. Every change, even if there is an opting out, will mean greater uniformity rather than less uniformity. And that's point that needs to be made.

On the positive side, I suggest that this amending formula is much more flexible and equitable than the main alternative which was put forward, and that was the formula contained in the Victoria Charter of 1971 and the many variants of that formula. That formula gave two provinces, Ontario and Quebec, a perpetual veto, regardless of their future share of Canada's population. Also, the formula that the federal government put in their resolution in October of 1980 contained an elaborate and one-sided referendum arrangement which would have allowed the federal government to ignore the views of provincial governments on crucial constitutional questions.

But perhaps most incredibly of all, the formula which the federal government eventually evolved by February of this year would have provided the appointed Senate with a perpetual veto over the constitutional package, a perpetual Senate veto which was rejected by every major study of the constitution — the federal government's federal paper of 1965, the Canadian Bar Association study, the Pepin-Robarts study, Claude Ryan's beige paper, the federal government's Bill C-60 and the Ontario committee report — I can list them all. None of them believed we should have a perpetual Senate veto. Even the original version of the federal government's resolution, which it introduced in October of 1980, did not have that in. But it was before the first ministers' conference this November.

So the agreement on the amending formula on November 5 eliminated the perpetual veto for the Senate, eliminated perpetual vetoes for Ontario and Quebec, removed the proposed referendum procedure with its many troublesome provisions. True, it has an opt-out provision, which could be troublesome. But on the whole, I think it is a much better formula and Canadian federalism is the better for that.

I should emphasize that in the case of Ontario and Quebec, their perpetual vetoes were not taken away from them by action of other governments, federal or provincial, but rather by their own actions. Ontario offered to give up its veto during the opening public session of the November conference. That was an important concession, for which I commend the Premier of Ontario, and it opened up still further opportunities to seek a flexible compromise. Quebec had already agreed to an amending formula which did not contain a Quebec veto, and they had done that in April of 1981 when they had signed a patriation plan agreed to by the eight premiers, the so called gang of eight, including Saskatchewan. I don't think that should be overlooked — the importance of that particular provision, the importance of the eight premiers obtaining from the province of Quebec the consent to a formula which did not include a Quebec veto, and the consent to patriation of the constitution without the division of other legislative powers being dealt with.

This is the first time, as far as I am aware, in the history of the province of Quebec that any Quebec government has ever agreed to any constitutional amending formula which did not give Quebec a veto, and this is the first time, certainly in recent history (and I'm talking about 40 or 50 years), that any Quebec government ever agreed to patriate the Canadian constitution unless there were changes in the division of powers. That was a very considerable move forward to arriving at a conclusion, which was

arrived at by the gang of eight in April of this year.

The constitutional accord before us contains a charter of rights and freedoms that I want to say something about, a charter which has been the subject of a good deal of public debate.

Let me say at the start, Mr. Speaker, that the Government of Saskatchewan believes that bills of rights are a good idea. This province had the first bill of rights in Canada, and our present human rights code is one of the best in the country.

SOME HON. MEMBERS: Hear, hear!

HON. MR. BLAKENEY: — But we still have strong doubts as to whether a bill of rights should be entrenched in the constitution in a way which puts court decisions beyond the reach of any parliament or legislature. We believe that this accord strikes a good balance between the desire to entrench a bill of rights in our constitution, to state our aspirations and concerns for human rights and, at the same time, to deal with our aspirations and concerns for human rights and, at the same time, to deal with our concern about putting unfettered power in the hands of appointed courts. With this accord, Canadians have an entrenched charter of rights and freedoms. I want to talk a little bit later about the different parts of that charter — not in detail, but there are two broad parts of it which are not often perceived by those who are talking about it.

Parliament and the provincial legislatures will ultimately have power to deal with the most complex sections of the charter. These are sections of the charter which entrench fundamental freedoms, legal rights and equality rights. These sections are subject to what the lawyers call a non-obstante or notwithstanding clause. This clause gives parliament and provincial legislatures the right to pass laws which conflict with these sections of the charter. Some people, in particular members of the national news media, like to call this an override clause. I like to think of it as a constitutional escape valve.

Let me try to provide a couple of illustrations to support my view of this clause. Section 2(a) of the charter dealing with fundamental freedoms says that all Canadians have, as one of their fundamental freedoms, the freedom of conscience and religion; it also confirms freedom of association. Now that sounds pretty simple and straightforward, and no one would argue that Canadians should not have these basic freedoms. But how might a court interpret those simple words.

I suggest that court interpretation of these rights might have some serious implications — for example, for the trade union movement. Would the words “freedom of association” mean the freedom not to associate, the freedom not to belong to a trade union? Would this then mean that unionized shops were no longer permitted by the constitution? That’s just one of a dozen concerns that trade union members might legitimately have about the charter. Clearly, if the Supreme Court of Canada decided that issue, which is a major social issue for all of the trade unions in Canada under federal or provincial jurisdiction, it is reasonable then for parliaments or legislatures to state a position, state a social policy, on whether or not union shops ought to exist in this country.

Section 15(1) of the charter begins with the words, “Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination.” Note that “every individual.” Again, this is what appears to be a

simple statement of a laudable objective. But a whole group of laws on the books of this province and almost every other province might be interpreted by the courts to violate this section — laws which do not deal with people individually but lump people together, and we have lots of them. There are laws that lump people together on the basis, let us say, of age. Discrimination, after all, simply means that we are selecting or classifying people on a basis which does not depend upon their individual attributes but upon some general classification. Now, that is what discrimination is all about. It has come to have another meaning — a classification which is not appropriate under the circumstances.

What about a minimum drinking age? Why do you legislate against people drinking alcoholic beverages? Because you feel that it is inappropriate for youthful people to imbibe alcoholic beverages. But clearly, you can think of 17-year-old people who are just as able to drink as some 19-year-olds or some 20-year-olds. So we're making a classification on the basis of age. Are those laws discriminatory? We will attempt to find out and the courts will decide.

What about the minimum age for operating a motor vehicle? The test ought to be whether someone can reasonably drive a motor vehicle. But we have decided (quite arbitrarily) that 16 years of age is the right age. Is that discrimination? Well, I don't know and I don't think any Canadian today can honestly give any assurance that, 10 years from now, courts will not be interpreting those words to strike down laws of that nature. Then I think it is perfectly reasonable for a parliament or a legislature to say, "We are going to decide whether or not that is the appropriate use of the court's powers. We are going to decide, not the court, but the parliament or legislature is going to decide on the minimum age of driving." Surely that is not in any real sense a violation of anybody's freedoms or rights.

AN HON. MEMBER: — The resolution is in London.

HON. MR. BLAKENEY: — The member opposite is suggesting that the resolution is in London. Indeed it is in London and I am simply explaining what can happen under the resolution as it is now worded in London.

Those who lobby for the complete elimination of the notwithstanding clause from the charter say that they would rather put their trust in making these kinds of broad social decisions in the appointed courts, rather than elected bodies like parliaments and legislatures.

Mr. Speaker, I am reminded of the words of a great Canadian scholar, Frank Scott. Many years ago he pointed out to Canadians that the law was the same for the rich as it is for the poor, since both are allowed to pay the full costs to carry their case to the Supreme Court of Canada — and that must be understood. When people talk about rights which are enforceable before the Supreme Court of Canada, they are talking about rights which are enforceable by a relatively small minority of Canadians. Those who need their rights protected most by our charter are often those least able to pay the price of defending or defining those rights before a court.

There is a question of how free an individual is to pursue his remedies in the courts. I have noticed a real reluctance on the part of many ordinary people to use the courts to pursue their remedies. That has been something I have noticed as I have practised law and as I have been a public servant in this province.

I remember when I was chairman of the securities commission and people would come in and say, " I signed this deal and I really think that I was misled," and I would say, "I understand your problem but I don't think there is any evidence of being misled — certainly none that I could act upon as a securities commissioner. I suggest that you go see a lawyer and take your case to the courts." They looked at me as if I were completely denying them their rights. They expected me as a public servant to deliver to them justice without having to go to the courts because surely if they had to go to court, justice was being denied. Now I am not suggesting that that is a reasonable attitude; I am just saying that it is a common attitude in parts of Saskatchewan.

There's a further question. Courts deal with individual cases. They're ill equipped to deal with broad social issues. They don't have a staff of experts to work for them; they can't set up a royal commission; they can't hold hearings all across this great land. So if there's a broad social issue, such as capital punishment or compulsory retirement age, that arises for decision by the supreme court, they have to operate on what comes to them from the litigants. They're not able to ascertain public opinion; they're not able to ascertain what the countervailing arguments are for or against, let us say, compulsory retirement at a given age. They are indeed ill equipped to make decisions on these broad social questions. Yet if you structure your charter of rights so that these are ultimately for decision by the courts, you will be left with that decision making process and not another. That's a real point.

I ask people to look to the United States and see what's happening. I don't say that it's bad; I just say that it's different from what we perceive to be the best way to make those kinds of social decisions in Canada. I noted one a couple of days ago in the paper. I noted someone who was convicted of murder (a particular heinous kind of murder) and was sentenced to die and the supreme court had struck down not the sentence but the whole idea of capital punishment and he was retried. I noticed that the judge sentenced him to something like 10,000 years. That's why it got in the paper . . . (inaudible interjection) . . . That is sort of a reaction.

People will know my views with respect to capital punishment. I'm not here to argue that there should be capital punishment. I am here to argue that that's the sort of decision which ought to be made by parliament and not by a court. Accordingly, it should not be made on the basis of whether capital punishment is a cruel and unusual punishment.

Now that is possible under the charter which was accepted. I'm saying the decision by parliament now is possible under the charter which came out of the conference on November 5; it was not possible under the charter which went into the conference on November 5. That's the point I want to make.

Mr. Speaker, I have some more to say and I know hon. members will have commitments and, accordingly, I beg leave to adjourn the debate.

SOME HON. MEMBERS: Hear, hear!

HON. MR. BLAKENEY: — Mr. Speaker, if that motion causes a problem then I withdraw it and call it 5 o'clock here — whatever you wish.

MR. SPEAKER: — I notice it is near 5 o'clock and I'm going to recognize that it is, in fact, 5 o'clock. The situation which has occurred here presents a new problem to the Speaker, and by noticing it is 5 o'clock, this House would therefore be adjourned. I will attempt to deal with the problem which is before us later on.

The Assembly adjourned at 5:08 p.m.

CORRIGENDUM

Hansard (N.S. Vol. XXIV. No. 9A, Tuesday, December 8, 1981) incorrectly reported remarks by the Hon. Mr. Rolfes, beginning with the second last paragraph on page 289. Beginning with that paragraph, the record should read:

HON. MR. ROLFES: — Mr. Speaker, certainly Saskatchewan led the other provinces in dealing with deinstitutionalization of those people who are experiencing a mental problem. Saskatchewan has led the way and, at many of the meetings that I have had with other provincial ministers, they have asked me ab out how we accomplished deinstitutionalization.

Mr. Speaker, certainly deinstitutionalizing brings with it an additional responsibility to provide the services in the community . . .