

EVENING SITTING

COMMITTEE OF THE WHOLE

Bill No. 119 — An Act respecting Saskatchewan Oil and Gas Corporation

Clause 1 (continued)

MR. LINGENFELTER: — Mr. Chairman, I want to follow up on some points that were sort of left hanging before the supper break, and I wonder if the minister could inform us whether or not . . . I believe it was section 3, subsection 7, we were talking about a certain word being changed, and a word that means literally millions of dollars for the taxpayers of the province — whether not you've considered that and can give us an answer.

HON. MR. SCHOENHALS: — Mr. Chairman, I would like to propose an amendment and I'll just read what it says on the motion.

Moved that clause 3(7)(b) of the printed Bill be amended by striking out, 'may agree with Saskoil' and substituting, 'and Saskoil shall agree within 30 days of the coming into force of this Act.'

I would ask if we wait till we get to that point in the committee, if that is agreeable to the member, and proceed that way.

MR. LINGENFELTER: — We will leave it as well to discuss it further till we get to that point because we will have other points to raise on it. I want to return to the remuneration of the directors and senior officers as well as the share option and the issue of why this share option is being offered. Last Friday I believe it was, and *Hansard* will confirm whether it was Thursday or Friday, but the minister was implying either directly or indirectly that this was being done and was standard within the private sector as an incentive to the senior officers of the company, and today he is saying that it's a technical reason; one that this share option has to be given out in order for certain tax advantages to come back to the company as a whole.

And I wonder if the minister could just outline clearly now, for the committee and for many people who are concerned about this share option, what is the reason and how will it work; how will it work and the background behind it. Because in the letter that you were quoting from . . . I agree it was outlined in some technical way, but I wonder if you could in layman's terms just tell us how that is going to work.

HON. MR. SCHOENHALS: — Mr. Chairman, just a very brief point. It was never my intention to indicate, and I don't believe I did, that this share option was part of the remuneration. I did indicate very clearly that it's fairly standard in the private sector and I pointed out the example of PWA; gave specific details on their share option. But it's always been my clear statement that these options were strictly for tax purposes and were not intended as a long-term executive option plan.

However, to go through once more what is taking place — the purpose of course, as I've indicated, is to be sure that Saskoil is able to bring forward in excess of \$300 million worth of tax credits that they have accumulated. In order for that to happen Saskoil must be changed from a Crown corporation company to a business corporation Act company and of course that is the whole purpose of this Bill that we are discussing. In general terms then, the process, step 1, is to continue the corporation from a Crown to a business corporation Act company. And since the government still owns 100 per cent of Saskoil at this time, it's not taxable. Therefore, the business corporation Act company must then be amalgamated with a legal for life company to allow pension funds to invest and so on.

Before the amalgamation, both the business corporation Act company and the legal for life company must be taxable. All right, the legal for life company already is; the business corporation Act

company, Saskoil, must either sell at least 10 per cent to someone or give an option to buy shares. Obviously at the time that we wanted to continue it, we have not had the opportunity to sell the shares so we have gone with the option to buy shares. We put the plan in place and we have received a tax ruling, which is the document that I sent over before the supper break, a tax ruling from federal finance to allow us to bring the \$300 million of available tax deductions forward to the new Saskoil corporation.

So the end result of it is that we had to make a determination that someone would have the option to purchase the shares. You could have looked, as you indicated before, at any number of people. Common business practice seemed consistent to put the names of the five top executives in the prospectus and to get the ruling on that basis, and that has been the process that has been used. That is the approval that we have received from federal finance, but I can only reiterate once again that there will be no windfall profits as a result of this and that it simply allows us to bring forward the \$300 million of tax credits that the corporation has accrued to this point.

MR. LINGENFELTER: — Mr. Minister, I wonder if you could outline whether or not setting up a trust would have been in order where the income or capital gains or the increase in value of the shares could have been built up and held in trust for the people of the province, as opposed to the five individuals you chose to allow the privilege of holding this share option.

HON. MR. SCHOENHALS: — The only way to do it, I'm informed, and to accomplish what we set out to do, would have been to have it held in trust for the government. That obviously would not be an arm's-length option and consequently was not something that was possible in order to achieve the results that we wanted.

MR. LINGENFELTER: — Could you explain that again, this arm's-length of it, because what we're talking about here now is a private company and I'm not sure how . . . what you're referring to when you refer to arm's length.

HON. MR. SCHOENHALS: — Okay. The only way that the recommendation that you make could have been done would have been to set up a trust in the government's name in which case you still have a Crown corporation. You do not have a taxable company as is the necessity, so you haven't accomplished what we needed to set out in order to bring forward the \$300 million. And the whole concept was to get the \$300 million of tax credits to stay in the corporation.

MR. LINGENFELTER: — Well I would ask you whether or not the finance minister for example, could have such a trust fund set up where the profits, the windfall potential, windfall profits could then flow back into the treasury where all the original shareholders in this company would benefit from it.

Because as I keep pointing out to you, this company that we have that is earning \$44 million . . . Well you try to make it look like it is you and the five chief executive officers who have put this thing together and made it tick. In fact it is the shareholders or the people of the province who have invested the money over the past 10 years and if it wasn't for them investing, there wouldn't be a company and there would be no profits. And you take away from what has really happened here by saying that you and five officials are the ones who have put this together and have made the money.

And basically, that's the difference between the private sector, which you're pretending we are dealing with, and a Crown corporation, which in fact is what you're breaking up. You're breaking up part of a Crown corporation that was built by any number of people along with the investors, that being the taxpayers of Saskatchewan.

And what I am trying to accomplish is somehow get the profits that would come from this technical need as you put it, to flow back to the original investors. And that's the point that we're getting hung up on, on this issue.

HON. MR. SCHOENHALS: — I think the member has indicated exactly the problem, exactly what

would not work.

The Minister of Finance could have been named as an individual, but not as the Minister of Finance. It can't remain in the ownership of the government in order to be taxable. We want it taxable so that we can bring forward the \$300 million of tax credits that have been built up. So it has to be someone in the private sector.

We opted for the five senior executives. Repeat again, that there will be no windfall profit. The whole line of argument that you're pursuing is based on the fact that the shares will escalate. I would suggest that all this argument and debate will look rather foolish if, in fact, the shares escalate and the executive people don't exercise their option.

MR. LINGENFELTER: — Well, they would . . . When it's written in the legislation and in the prospectus that they can, you have explained why they should be able to. On Thursday and Friday of last week you were saying that they had every right to and would, and this would help add to their income.

You'd have to wonder why they wouldn't, after you write the legislation. You, with them, with the board of directors, set the share price, and I want to say to you that this attitude of 'trust us' is one that the people of Saskatchewan are a little leery about. They're a little leery about trusting you.

The issue of the increase in shares — I want to go at this from a different way. You're saying that you can't do it by more broadly basing the share option. I doubt that that's accurate. I think you could. I think there could be a mechanism by which you could not give it to the five individuals, but give it on a broader base to the people who are either buying the shares, or the original owners of the Crown corporation, that being the people of Saskatchewan.

(1915)

But the other way you could do it, I think, and I want to check this with you, is on the number of shares. You're saying 50,000. I would suggest to you that we reduce that number, and that we reduce that number — and I would be willing to compromise on my amendment, by changing it from saying 'any shares,' to 'five shares.' From 50,000 shares to five shares. One share for each of them. And I say, would that meet the tax issue?

HON. MR. SCHOENHALS: — Mr. Chairman, to the member opposite, it would be fine to put in the names, and preferable probably, to put in the names of the people who will buy the shares. The problem is, as I've indicated, that at the time that it takes place, those people have not been identified. If we had the shares sold, we wouldn't need this.

The tax ruling is to bring forward \$300 million of tax credits. Consequently we have gotten the ruling which I have shown you, clearly stating that the mechanism that we have in place is the one that is acceptable and is reasonable and is consistent with federal tax laws. That's why we've done it that way. That's why we have the ruling. I am telling you that if in fact the scenario took place, and very well might, in which the shares did in fact escalate in value, then the executive members did not exercise this option, as I've indicated, this whole debate looks a little foolish.

MR. LINGENFELTER: — I want to get one point clear because I think either you missed my question or you're not answering it. And that is, can we change the number of shares from 50,000 to five, and put that into the legislation?

HON. MR. SCHOENHALS: — No, Mr. Chairman. The five is not, I don't think, reasonable, but it is not what we have approval for. We have approval for a very specific option and you have the letter and you can read it and you can read the numbers. And that is the approval that we have obtained. And I think it's reasonable and sensible and federal tax people have agreed to that, and to change it in any way is to go back to the whole approval process. We don't believe it's necessary. We don't propose to do that.

MR. LINGENFELTER: — Well, where did the idea of 50,000 come from? Who decided that 50,000 or 10,000 for each of the officials was the right number? Did that come from the tax department? Is that a minimum number that you can have? Or where did 50,000 come from? We're shifting ground here. It's like shooting at a moving target. First of all, Thursday you say it's to add to the income of the five senior officers. Then you move off of that and say, no, it's not for that, it's for a technical reason. And now I'm asking: can you tell me where the 50,000 came from? Whose idea was that?

HON. MR. SCHOENHALS: — Mr. Chairman, as I'm sure the member opposite and most members of the committee are aware, in order for a corporation to be taxable, it must be 10 per cent privately owned. If we assume the value in the range of \$250 million in terms of the value of the equity and we take 10 per cent of that, we have \$25 million value.

Consequently, when discussing the issue with our advisers, they indicated that it had to be something that was reasonable, that would not appear as a sham. The preferred share issue in Manitoba is an example of how the federal government have ferreted out various shams in the past. It had to be a reasonable number and they advised that the 50,000 limit was one that the federal Finance people would accept.

Consequently we put it together in that manner. We went for approval from federal Finance. We have received that approval, of course, in the letter that I have given you. And I guess that's the answer to why we chose that number. It simply seemed like a reasonable number.

I'm sure that the member opposite and his colleagues will accept that five shares is not reasonable and does in fact appear to be a sham.

MR. LINGENFELTER: — Well, Mr. Minister, I want to ask you this one more time for clarification, and that is whether reducing it to some lower number — because this is what people are telling me who I talk to, that the 50,000 is out of order; it's out of order. And the minister can say that it isn't reasonable. But I'll tell you that people aren't accepting 50,000.

And I want to ask you again to clarify whether or not it's possible that we could amend my amendment, be reasonable about it, and put in five as opposed to 50,000.

And I want to ask you again to clarify whether or not it's possible that we could amend my amendment, be reasonable about it, and put in five as opposed to 50,000.

HON. MR. SCHOENHALS: — As I just indicated, and I'll go through it once more. In order for a corporation to be taxable which is, in fact, what we are doing here, 10 per cent must be owned by the private sector. What we have received from federal finance is approval for the arrangements as we laid out with the 50,000 share option. It's a reasonable number. We were advised by our advisers that that was a reasonable number, federal finance accepted that, and we got the approval after some considerable to-ing and fro-ing on that basis.

To reduce it to five, as I indicated, would make it a clear mockery of the intention — 10 per cent being \$25 million, five shares being 45. I mean it simply wouldn't be reasonable. I'm sure that federal finance would reject it as such, and consequently we're simply not prepared to change the approval that we have already received.

MR. LINGENFELTER: — Well, Mr. Minister, in the letter that you tabled — you not only tabled one letter, you tabled two letters — and I want to read the second letter you tabled which tells me something quite different. It tells you something quite different about the number of shares that can be offered and its effect on the taxation of this corporation.

I want to say at the beginning, Mr. Minister, that when I'm completed here I expect an apology on what you've just said, and I want to read this to you.

This is dated December 6th, 1985; that's last Friday. It comes by electric mail. It's not mailed. It comes by electric mail, and it deals with this very issue we're debating in this Assembly. And when I'm finished reading it I think it will show how difficult it is to do business with this government.

This letter is from Mr. I.G. Sutherland, Clarkson Gordon, chartered accountants — it is to Mr. I.G. Sutherland, Clarkson Gordon, Chartered Accountants, 1300 Iveagh House, 707 7th Avenue S.W., Calgary, Alberta, December 6th, 1985.

Dear sirs: Re: Advance income Tax Ruling (3-5277) Sask Oil and Gas Corporation (Saskoil):

This is in reply to your letter dated December 6, 1985, concerning the above noted advance ruling given on November 15, 1985. You have asked us to confirm the following:

By virtue only of the fact that the options to be granted by Saskoil to each of its five most senior officers, as noted at Proposed Transaction (paragraph 11) of the advance income tax ruling, may be reduced in volume from 50,000 shares in aggregate to some lesser number, the advanced income tax ruling will not be invalidated, and the rulings noted in the November 15, 1985 advance income tax ruling will continue to have effect subject to the general limitations and qualifications set forth in the Information Circular 70-6R dated December 18, 1978 and will continue to be binding provided the proposed transactions, as amended for the above-noted change in respect of the options to be granted to the senior officers of Saskoil, are completed by May 31, 1986.

Confirmation given: We confirm that a reduction in the total volume of shares from 50,000 common shares to some lesser number, which will be offered to Saskoil's senior officers in the manner described in paragraph 11 of the ruling, will not in and by itself, affect the ruling previously given.

Now I say to you, sir, having had this letter, having given it over to us I think inadvertently, I think what you have told us this evening in this Assembly is not accurate and should be withdrawn and you should start over again.

HON. MR. SCHOENHALS: — Mr. Chairman, that is simply not a correct interpretation of events. As I understand it, and I was not aware of that letter, but my officials received it . . . (inaudible interjection) . . . Well, that's fine.

MR. CHAIRMAN: — Order, order. Let the minister answer.

HON. MR. SCHOENHALS: — My officials received that letter on Friday. I was out of town on the weekend. I came back; I was not informed. And the reason, I understand, that they did not . . . Mr. Chairman, the reason that they did not make me aware of it was that the reduction is not clear as to what will be accepted. They understand it's a very small number.

I believe that the members of the opposition are aware that there is a certain amount of haste, that the public are anxiously awaiting this. We are not interested in delaying this thing any further in going through an approval process that could take some time, and consequently they didn't bring it up.

Now the fact that you have it would demonstrate the openness that we're prepared to deal with this thing, but I indicate to you that I was not aware of that letter.

MR. LINGENFELTER: — Well, I say to you . . . well, I'll say it. The member for Regina North East says you've been snowballing for five days, and you ask him to stand and say it. I'll say it for him, because we've been dealing with this Bill and I'll tell you, you're not giving us correct information. This proves it again.

And you, as the minister in charge of this Crown corporation and this department, are not within your rights to stand in this Assembly and say one thing when you have officials sitting around you who have this letter that clearly outlines that the changes we're proposing are in order — for you to

stand here and say that they are not, and that it can't be done, and that you're out to save the taxpayers a bundle of money. Well now that one is gone as well.

We've now had a number of explanations, the last one being that you had to have 50,000 shares in order to save the taxpayers money. That one's disappeared. That one's disappeared. This tax ruling which you had in your hands last Friday, December 6th — had in your hands, handed to me — quoted from the attached letter, says clearly:

Confirmation given. We confirm that a reduction in the total volume of shares from 50,000 common shares to some lesser number which will be offered to Saskoil's senior officers in a manner described in paragraph 11 of the ruling, will not in and by itself, affect the ruling previously given.

And I say to you, what are you doing? Why do you continue on down this path of defending the share option for these five individuals? I say to you that the five officials that sit around you and stand to benefit from this, it's either one of two things. It's either one of two things: either you should resign — either you should resign — having hidden this information from us, or you should fire the people who haven't given it to you, one or the other. There's no in between, no in between.

Obviously you're paying these individuals a good sum of money. They stand to benefit from this share option. Now you can stand here and make us believe one of two things. I think you knew about it. I think you have read this letter, but you say you didn't.

I think you have one of two options. Either you should apologize and resign for misleading the Assembly and the committee, or you should get rid of the people who are advising you and for the last three days didn't take the time, having sat here in this Assembly all afternoon or outside the door waiting to come on, and didn't advise you of this information. Now it's one of the two. And simply to go on in this committee when we cannot get information and when we do get information, we can't believe it — we can't function.

Very clearly we're dealing with half a billion dollars of taxpayers' money. We're dealing with half a billion dollars of taxpayers' money and you came in here in a jocular manner on the first day as if we were interrupting some business that you had dealing with the private sector, as if you didn't have time to come to the committee. This is a big bother for me; I'm busy; I'm out there with the private sector wheeling and dealing.

Well I say to you that you have misled the House on a very important issue. One of two things are in order. I say we should pull this Bill, pull it for a day or two, rearrange the people around you, if that's what's necessary, or on the other hand, you should resign. And I want to give you that opportunity now.

(1930)

HON. MR. SCHOENHALS: — Mr. Chairman, we will not be pulling the Bill, I will not be resigning, and the officials around me will remain where they are.

The letter that you received, as you indicated, arrived after 6 o'clock Friday. As I indicated, I was not in the city over the weekend. As I've indicated as well, there is concern as to the meaning of the letter as to exactly what number would be acceptable. Since it's irrelevant, and there will be no windfall profit, we have determined to proceed with the number that we have in place. It's that simple, Mr. Chairman.

MR. LINGENFELTER: — Mr. Chairman, I think in the light of what has happened here tonight that we should adjourn, and I make that motion that we adjourn until the minister informs himself and cleans up this mess, because it's simply impossible to function.

MR. CHAIRMAN: — The motion is out of order because we're in a committee. Proceed.

MR. LINGENFELTER: — Mr. Chairman, I challenge your ruling because of the simple fact that a motion of adjournment is always in order in any committee, or at any meeting for that matter, and I would ask you to clarify that because I don't agree with your ruling.

Mr. Chairman, I move the committee rise, report progress, and ask for leave to sit again.

The division bells stopped ringing at 9:58 p.m.

Motion agreed to on the following recorded division.

YEAS — 51

Devine	Sandberg	Gerich
McLeod	Klein	Schmidt
Andrew	Dutchak	Muller
Berntson	Embury	Meagher
Lane	Martens	Glauser
Taylor	Maxwell	Sauder
Rousseau	Smith (Moose Jaw South)	Zazelenchuk
Duncan	Domotor	Johnson
Katzman	Folk	Baker
Pickering	Petersen	Parker
Hardy	Hodgins	Morin
McLaren	Swenson	Tchorzewski
Smith (Swift Current)	Young	Engel
Myers	Hopfner	Lingenfelter
Hepworth	Weiman	Koskie
Schoenhals	Rybchuk	Lusney
Dirks	Caswell	Shillington

NAYS — 0

The committee reported progress.

The Assembly adjourned at 10:02 p.m.