LEGISLATIVE ASSEMBLY OF ALBERTA

Title: **Tuesday, May 31, 1983 2:30 p.m.**

[The House met at 2:30 p.m.]

PRAYERS

[Mr. Speaker in the Chair]

head: INTRODUCTION OF VISITORS

MR. M. MOORE: Mr. Speaker, this week is National Transportation Week; a week that, among other things, is dedicated to the more than 1 million men and women who serve the transportation industry across Canada. Each year, one of those individuals is chosen as Canada's Transportation Man of the Year. Last Thursday, May 27, in Quebec City, Mr. Rowly McFarlane, former Chief Deputy Minister of Alberta Transportation, was presented with the Transportation Man of the Year Award for Canada by the federal Minister of Transportation.

Mr. Speaker, Mr. McFarlane is in your gallery. I ask that he rise and that all members join me in congratulating Mr. McFarlane on this outstanding achievement.

MR. SCHMID: Mr. Speaker, we are able to welcome today in your gallery His Excellency Kokougan Agbeviade Apaloo, Ambassador from the Togolese Republic. His Excellency is not only meeting with the Hon. LeRoy Fjordbotten and the Hon. Dave King to discuss possible co-operation between Togo and our province in agricultural education, but he also has appointments with a great number of Alberta companies for farm machinery, water-belt drilling and management, fibreboard housing, meat and dairy production, grain storage, and oil and gas technology.

We would like to express our appreciation to His Excellency for providing this opportunity to Alberta exporters, and ask him to rise and receive the welcome of this Assembly.

head: INTRODUCTION OF BILLS

Bill 220
Provincial-Municipal Resource Revenue Sharing Act

MR. MARTIN: Mr. Speaker, I beg leave to introduce Bill No. 220, the Provincial-Municipal Resource Revenue Sharing Act.

If this Bill were passed, 8 per cent of our non-renewable resource revenues would be shared with Alberta municipalities to give them a stable source of income. Bill 220 would enact in legislative form a recommendation of the 1981 convention of the Alberta Urban Municipalities Association.

[Leave granted; Bill 220 read a first time]

head: INTRODUCTION OF SPECIAL GUESTS

MR. R. SPEAKER: Mr. Speaker, I would first like to offer my congratulations as well to Mr. McFarlane on his designation. I think that's very honorable and very wise.

As well, Mr. Speaker, I would like to introduce four members of the Blackfoot coal committee, some from my constituency, and their solicitor. This group of gentlemen is proceeding in the development of coal from the reserve, as well as hoping to establish a large power generating plant. They're doing a great job. I'd like to introduce them to the members of the Legislature: the chairman of that committee, Levi Many Heads; members Jim Munro, Floyd Royal, and Adrian Stimson; and their solicitor, Doug Bouy.

head: MINISTERIAL STATEMENTS

Department of Education

MR. KING: Mr. Speaker, as Minister of Education, I would like to announce that beginning in September 1983, all grade 12 students in Alberta will be required to write provincial examinations in order to receive a high school diploma.

These examinations will be course specific and will count for one-half of each student's graduation marks. The final course marks will be a fifty-fifty weighting of the school-awarded mark and the diploma examination mark. The student's transcript will therefore include three marks: the local mark awarded by the classroom teacher, the mark obtained on the provincial diploma examination, and the weighted mark, which would be the average of the first two marks.

Two levels of diplomas will be awarded by Alberta Education: the general high school diploma and the advanced high school diploma. To qualify for the general high school diploma, students will be required to meet the current high school course and credit requirements and write a provincial diploma examination in at least language arts, either English 30 or English 33.

In order to acknowledge a higher academic achievement among students who follow a more challenging program, an advanced high school diploma will be awarded. These students will be required to meet the current course and credit requirements for a high school diploma and will write provincial diploma examinations in English 30, Social Studies 30, Mathematics 30, and at least one of Biology 30, Chemistry 30, or Physics 30.

To achieve credit, grade 12 students will be required to obtain a final course mark of 50 per cent or better. At the grades 10 and 11 levels, the minimum mark for receiving credits will continue to be 40 per cent. However, except in unusual circumstances, students must receive at least 50 per cent in order to take the next course in that sequence.

Students will receive individual results statements from Alberta Education, and achievement profiles by school will be provided to schools and school jurisdictions.

This new direction by Alberta Education is important in order to develop and maintain excellence in educational standards throughout the province. External examinations are essential, educationally sound, and an effective and efficient means of testing and monitoring student achievement.

Alberta Education's January discussion paper on student evaluation stimulated much public discussion. Response to that document showed overwhelming support

for the implementation of these provincial examinations.

We recognize that provincial examinations are in themselves not the only means of testing achievement. That is why the teacher-awarded marks will account for 50 per cent of the student's final mark in that course. Local evaluation continues to be an essential component of student evaluation.

In order to ensure a high quality of education for children in Alberta, other evaluation processes will also be undertaken by Alberta Education. However, we recognize that student evaluation responds to only some of our challenges. Other initiatives will be taken in the areas of teacher evaluation; program, school, and system evaluation; teacher training and certification; and curriculum. We intend to initiate a major review of our secondary program of studies in the very near future.

Mr. Speaker, as Minister of Education, I want to emphasize that education for the future will continue to offer a high standard of academic excellence on an equal basis to students throughout Alberta.

Thank you.

MR. NOTLEY: Mr. Speaker, in responding to the ministerial statement today by the Minister of Education on the implementation of comprehensives, I'd like to make several points. First of all, I'm pleased to see that the government appears to have responded to some of the concerns of the Alberta Teachers' Association. I note with interest that 50 per cent of the marks will come from this province-wide comprehensive set of exams; the other 50 per cent will come as a result of grading by the classroom teacher. As I recall, that was the recommendation made by the general assembly of the ATA. It seems to me that this compromise will allay some of the concerns about the introduction of comprehensives.

I might just point out that traditional concerns about the old comprehensive approach, the old school exams, have been voiced in this House before: too often we've had teachers who've taught for the departmental examinations rather than teaching so that the student can learn the joy of learning itself, which must be a lifelong experience. Nevertheless, I am certainly cognizant of the fact that there has been widespread concern about bench marks. It seems to me that the compromise announced today by the government is a reasonable one.

Mr. Speaker, the second point I'd like to make, however, is with respect to the continuation of 40 per cent as a pass mark in grades 10 and 11. Frankly, I believe that is an inadequate mark. I've been told by teachers in my constituency and teachers throughout the province that we should be looking at a pass mark of 50 per cent. We think that the continuation of 40 per cent as a sort of bargain-basement pass mark, if you like, is not adequate.

The third point, Mr. Speaker, is that I hope this government will move quite quickly with respect to setting out the guidelines, if you like, to any evaluation of some of the other points the minister raised, particularly with respect to teacher evaluation. As long as I've been in public life in Alberta, I know that the question of teacher evaluation has been very contentious. It was first raised as a result of the royal commission that led to the school foundation plan being introduced by the former Social Credit government in 1959. I would say to members of the government that the government will have a very important responsibility to not simply drop this and leave it as a threat hanging over the heads of teachers in this province, but very quickly the minister has an obligation to clearly spell out what the terms and conditions of any approach to teacher evaluation will be.

MR. SPEAKER: Might the hon. Minister responsible for Native Affairs revert to Introduction of Special Guests?

HON. MEMBERS: Agreed.

head: INTRODUCTION OF SPECIAL GUESTS
(reversion)

MR. PAHL: Thank you very much, Mr. Speaker. It's my pleasure to introduce to you, and through you to members of the Assembly, some special guests from the constituency of Edmonton Mill Woods, in the form of 68 mostly grade 6 and some grade 5 students from Greenview elementary school. They are accompanied by group leader and teacher Pat Redhead, teachers Don Briggs and Gerry Mittelstadt, and supervisor Patty Briggs, the hon. Member for Calgary Bow's cousin. They are seated in the members gallery. I ask them to rise and receive the traditional greetings of the Assembly.

ORDERS OF THE DAY

head: COMMITTEE OF SUPPLY

[Mr. Appleby in the Chair]

MR. CHAIRMAN: Could the Committee of Supply please come to order.

ALBERTA HERITAGE SAVINGS TRUST FUND
CAPITAL PROJECTS DIVISION
1983-84 ESTIMATES OF
PROPOSED INVESTMENTS (II)

Department of Economic Development

1 — Venture Capital Financing — Vencap Equities Alberta Ltd.

MR. CHAIRMAN: Are there any questions or comments?

MR. R. SPEAKER: Mr. Chairman, to the minister. In terms of the venture capital equities, as I understand it the earlier ground rules announced that they would try to avoid investment in terms of the oil and gas industry because of certain reasons, and we'd get into the more high-tech type of investment. Since the minister made that statement some time ago — and in reassessing the program — has it been possible to follow that ground rule, or does it look as if the venture capital will in some ways be invested in the oil and gas industry at this time?

MR. PLANCHE: Mr. Chairman, the loan will be predicated on five areas that the fund would be precluded from investing in: conventional oil and gas, conventional banking, conventional real estate activities, water diversion, and nuclear energy. Conventional oil and gas would not preclude high technology in terms of recovery from tar sands or engineering advances in the service end of the industry. It's meant to include the simple activity of investing in conventional oil and gas. Things peripheral to

it that will offer value-added jobs, high engineering involved jobs, or brain-intensive industries associated with it, will of course be included.

MR. R. SPEAKER: Mr. Chairman, to the minister. One of the areas of high technology that I understand has received a lot of attention at the University of Alberta is the use of laser beams for various small and large industries. I'm sure the minister is aware of the number of functions it can perform. I'm slightly familiar with some of them and very impressed. I understand that in Edmonton, we have at least four labs, sort of — and that doesn't include the university lab — where laser beam research is being done. Hopefully we can apply the technology to various industries, not only in Alberta but in Canada and certainly in the United States.

I understand Northwest Industries has some experimentation going on, at the Research Council as well, and there's one other lab. I am wondering if the minister could indicate whether venture capital will be used in that kind of exploration or whether that's private capital. What kind of discussions has the minister had with regard to this concept, and what potential do you see for the concept in the areas I've mentioned?

MR. PLANCHE: Vencap Equities Alberta Ltd. certainly would be able to entertain creative financing for that sector of industry. Over time we've had extended conversations with two or three proponents of laser technology, and we are presently in a fairly advanced stage of negotiation with one, simply because their window may be shorter than the fruition of the funding of the venture capital corporation as it presently exists.

I'm not technically competent to comment on the future, other than to say that all the traditional difficulties Alberta has in getting weight versus value to market would be overcome with that kind of technology. We certainly have the talent here; that's proven. I see no reason at all why Alberta couldn't build on laser technology as one of its strengths, from my limited capacity to assess it.

DR. BUCK: Mr. Chairman, I'd like to ask a question of the minister. Yesterday afternoon, I took my colleague the hon. Member for Little Bow to the Fort Saskatchewan area. We were touring some of the petrochemical plants and some of the industries, and we stopped at a most interesting place, where they're developing monorail. I'm not sure if the minister is familiar with it or not; I believe it's called Alberta Monorail. They are looking at some type of simplified monorail that can be developed and used in Alberta to keep the costs as low as possible when we're looking at moving people. An example of the one they were looking at is from Edson to one of the new coal developments, a distance of about 40 miles. I promised them — they happen to be just down the road from where I live — that as soon as this session is over, I'll somehow shanghai the minister, and we'll do a little tour of the Fort Saskatchewan area and have a look at the thing. It's quite an interesting concept, and I think that's the type of thing we're trying to do in Alberta.

I'd like to know from the minister if a project such as this, which is really still in the developmental stage, is what we look at when we look at venture capital.

MR. PLANCHE: Yes, there's no question that they're not precluded whatsoever from applying to this fund for creative financing. We've done extensive work in the department on the cost/benefits of a variety of modes of moving people. To my knowledge, however, we've never had an initiative presented to us from the monorail people, either the Calgary one or the one the member is referring to.

On the issue of going to Fort Saskatchewan, I've always treasured my moments with that particular member and look forward to some more of them.

MR. NOTLEY: Mr. Chairman, I'd like to raise a few questions about the operation of Vencap Equities Alberta Ltd. The minister outlined the five areas, I gather, in which there won't be investment. Since we're now asking in committee stage for $200 million, perhaps the minister could take some time to tell the committee exactly what areas he sees Vencap Equities moving in at this stage and whether any preliminary inventory of investment prospects has been undertaken. Perhaps, Mr. Chairman, I could pose those as a couple of initial questions, and then perhaps add comments later on. I think it would be useful if, rather than the minister answering specific questions in a shotgun fashion, we took a few minutes today and actually had an overview of what the government is proposing to do with this $200 million estimate.

MR. PLANCHE: I'd be happy to do that, Mr. Chairman. Essentially, creative financing, as I perceive it, would require some intuitive activity rather than that which is controlled by tight regulations, simply because I don't think it's possible to accurately identify an inventory of all things that are happening.

Secondly, there's the issue of whether or not certain things are of benefit to Alberta. The prescription for those may not necessarily mean they happen in Alberta; it may not necessarily mean they're owned from within Alberta. It would be the judgment of the board to properly use the terminology "of benefit to Alberta". So rather than prescribing what they could do positively, we thought it preferable to prescribe what they could not do, and then let the thing fly on its own merit.

Because of a branch banking system, because of a lack of defence contract activity and all the federal funds that go into that, and because of a lack of competitive foundation funding as they have in the United States, we have recognized that we have really not had much access to patient money, meaning money that doesn't have to be debt serviced at the end of the first 30 days it's borrowed. There have been some venture capitalists in Alberta that have been active. Generally, their activities have revolved around what they know best. They've most often accumulated their money from oil and gas and from real estate speculation. They tend to stay with those particular areas of activity, and those who are trying to get into what we refer to as high technology have had difficulty accessing those kinds of funds. So it would be the priority of this fund to work, in a joint-venture way, with the present venture capitalists.

As a first, we would prescribe the five areas I've outlined that would not be acceptable for this fund to become involved in, and then it would be run by professional fund managers. Generally, venture funding is sort of a hands-on business, at least in the early stages. It's understood that a man who is at a senior level of venture capital financing becomes involved in the management and activities, either in a directorship way or in a hands-on management way, for a period of time. So it will follow that there is a limit to how many accounts one man can handle. Those people will be brought on board

as that limit is reached and as sectoral proficiency is required.

We think the way to assess the market for venture capital in Alberta — and the best barometer we have so far is those who come to see us and have been coming for an extended period of time. The problem with trying to quantify them is that there is no record of those who did not get money; there is only a record of those who did get money.

We think there are really four ingredients that are important. The first is an attitude. By that I mean somehow or other developing a vehicle so that people from the academic world will feel comfortable transferring technological and proprietary developments into the commercial world. That's a first. The second one is an identification and/or inventory, if you will, of who is involved in the activity, not only in academia but also in industry, so that people who arrive in Alberta can have a sense of direction as to who they might contact in terms of joint venturing, investing, and technology transfer. To that end, the Battelle Institute, as a for instance, is going to be a very important part of this mosaic.

The third one is communication. By that I mean using the reverse of identifying who it is and sending back down the line, I presume through a government vehicle, all the information we can, to be sure there is no reinvention of the wheel and to provide those in the area of activity with an inventory of similar activities throughout the world with whom they might communicate if their interests run similarly. Fourth is the ability to provide creative financing. All four really have to be brought along at the same time, and it's our hope that we as a government can facilitate that process without interfering.

MR. NOTLEY: Mr. Chairman, I welcome the minister's answer. I'd like to perhaps just explore the four points the minister has outlined: attitude, inventory, communication, and creative financing. I take it that in addition to Vencap, with this $200 million which, as I understand it, is going to be supplemented by private subscriptions as well — is that not a possibility? [interjection] Okay. My understanding is that it's going to be somewhat larger. Perhaps we could take just a moment — well, let the minister answer that first, then.

MR. PLANCHE: Mr. Chairman, the first thing would be to develop a public offering that would be of a size and quality that everyone interested in investing indeed could. And to widely disperse the opportunities throughout the province, with a maximum of what any one owner could have as a percentage of the total, a public offering would be available to Albertans first. When that was in place, this loan would then be made to that company. That would be the plan. The offering would be in the form of a unit which would include a convertible bond of some small denomination, plus a number of shares attached to it. The bond would have a commercial rate, and that rate would be guaranteed by the government.

MR. NOTLEY: So the public offering, if you like, will be project by project, as opposed to an offering in Vencap itself.

MR. PLANCHE: No. I'm sorry; I didn't mean to mislead the hon. member. The offering would be made in aggregate initially. The company would then be a public company, and that public company would then give bonds to receive this money from the government. It would be done initially, not project by project.

MR. NOTLEY: And the objective is fifty-fifty? Or what is the objective in terms of the funding? We're asked to vote $200 million. What does the minister see as the eventual capitalization of Vencap — $400 million, $500 million?

MR. PLANCHE: The hopes would be that we would have some 80,000 subscribers within the province, that that should generate something in the order of $45 million, and that this would then respond to that initial subscription.

MR. R. SPEAKER: Mr. Chairman, in terms of those 80,000 subscribers, the minister mentioned that those would be initial issues, I believe were the words. Is there any time frame relative to the use of the venture capital?

MR. PLANCHE: It's going to take some time to place this sum of money. The unit offering would be proposed as a general offering. It would be underwritten. It would be available to Albertans only. There is a minimum subscription required. When that's achieved, the loan from the government would be forthcoming. The company would then launch its career with some $200 million in government debt and approximately $45 million in a mixture of both stocks and bonds that the public had subscribed to.

MR. R. SPEAKER: Mr. Chairman, maybe the minister referred to it. Can the government take a majority interest in the particular company? Is that possible? Or would it be less than the 50 per cent?

MR. PLANCHE: I'm not sure I understand the question. The government will have no involvement whatsoever in this corporation. This will be completely at arm's length; the government will not even have a board member. It will be free to operate as a venture capital/merchant bank, if you will. It will be operated under the auspices of eight to 15 directors, who will all be Alberta citizens on that board as working members and whose criteria for membership will be their competence in business and their experience in venture capital and financing. The government won't have the intention of becoming involved in anything they do unless some circumstances over time would preclude it, but then it would be an arm's-length arrangement between the government and Vencap. Nothing is foreseen in the future in that regard; no planning has been done for that to happen. The only thing that might happen is that other venture capitalists who are now out there in the private sector would joint venture or lay off part of the risk with Vencap, and one of Vencap's priorities is to do that.

There is a provision that at any time the directors take Vencap in a direction that, in our judgment, is not of benefit to Alberta, the government does have the right to back into 20 per cent of the voting shares. That should be able to carry a decision as to redirecting Vencap over time, because it's impossible to forecast what eventualities may arise. All those caveats will be in existence until the debt is recovered by the government.

MR. PAPROSKI: Mr. Chairman, my question pertains to Vencap Equities as well. It deals with the geographical distribution of funds. I'd like to just preface my com-

merits by alluding to the Alberta Opportunity Company, where the majority of funds have been allocated to rural areas. I am wondering if the minister could comment as to whether there would be a similar type of allocation with Vencap.

MR. PLANCHE: The answer is no, Mr. Chairman. The investments will be made on their merit.

MR. CHAIRMAN: The hon. Member for Edmonton Norwood.

MR. MARTIN: Thank you. I believe the Member for Edmonton Whitemud was ahead of me but, seeing he's called my name, just a few comments to the minister.

I don't think anybody would say that it is not generally a good idea. I compliment the government for looking at this, and I expect part of it flows from the Foster report that people looked at. In looking at new ideas, we have to be a little bit bold. I also would agree with the minister, and I believe the Premier said — I have the announcement from September 30 — that the corporation would be run completely at arm's length from government by a board of directors. I think that's generally a good policy. It should be true of Crown corporations also, if they are to compete. So I agree with that.

The only point I would like to make is that I believe — and I'd like the minister to fill me in on this — that perhaps we missed a step before we brought in this venture capital financing; that is, we should basically know what is possible in Alberta. I've never seen an economic analysis of, say, 15 or 20 years down the road, first of all about the type of economy and province we want, and the industries that would be viable for that — if you like, an economic council similar to what Japan or some of the social democratic countries in western Europe have. They have a pretty good idea of what they want to do in terms of their economy. Then they would use an organization — you're doing that here — to encourage private companies to move and work in that direction.

The one danger I would see about jumping over here without having a very detailed analysis by some of the best minds around, in terms of what's viable and what type of Alberta we want in the future, is that there could be a lot of 'ad hockery', if I could put it that way, a lot of good ideas. They may be good ideas somewhere else in North America or in the world. But if we do not know where we want to go in terms of our economy in the future, we could be absolutely wasting money: these couldn't be viable even though they looked it on paper.

Mr. Chairman, I say to the minister that maybe I've missed something, that this has been done. But I don't believe so. That's a concern I have, if this is going to be successful. I'd like the minister's comments on this, if I could.

MR. PLANCHE: Mr. Chairman, if I may, I'm happy to comment question by question, because they're fairly complex questions.

First of all, one of the reasons this will be well screened is because venture capitalists will want to know from the entrepreneur how much of his own money he has in the project and of co-investors with him, to bring it to an area that it can be properly assessed as potential. So the market place will take care of a great many things before they're screened. And, with great respect, I would assume there is a philosophical difference between the member and I in whether there should be state control in terms of direction. I suppose there is something to be said for both. But the problem in Alberta is that we have a natural restriction. It's really a weight/freight value-added ratio that precludes things that may be available to people who have tidewater access or a different kind of climate.

In my judgment, when we talk about diversification, we've got to be careful that we understand that we are not necessarily talking about diversification of income to our Treasury but diversification of activity. It's a very different perspective on what's happening. For instance, I don't think it's possible to diversify an economy where the revenues flowing to the Treasury would balance the revenues flowing from natural resources in the medium term. I just don't think that's an achievable goal. So what we are trying to do here is balance activity and opportunity, and that can come about in a great many ways. Our experience, from the number of people who have come by the department looking for creative financing or some kind of assistant financing, indicates that it would be almost impossible to identify them in terms of an accurate inventory.

Mr. Chairman, this last two or three years has afforded our population several changes. One of them is that a lot of the oil companies have cut staff and amalgamated, and a lot of geophysical activity has either left the country or suffered a downturn like the rest of that sector. People who have a great talent are now free to do — and many of them, rather than looking at the futility of trying to get the same kind of jobs they had corporately, have decided to go out on their own with some colleagues who are equally talented. They've applied their craft that used to be applied to resources, to other things like communications, cold-weather activity, medical research, and a variety of activities. Those are the ones who are coming to the fore. The multiples of demand for dollars are very rapid if they're on the right track.

I think the best possible assessment of what's best for Alberta will come from the board level and the kind of people who are running Vencap. No question: if the quality of people running Vencap is not there, the thing won't be anything as good as it would be if they were there. In my judgment, we have had a very active board to this point. They've been very circumspect in the way they've approached the employment of their chief executive officer, and I'm assured they're doing their search for their chief financial officer in the same way. From that base will come a group of people who understand very well what the issues are. It may not be perfect. It may very well be that over time, something that will be required by people who need smaller sums of money may be necessary. The one key, though, is that it's difficult to prescribe regulations whereby government officials invest. This is not that kind of a market. It needs intuitive financing. It needs somebody who can visualize the strength and future of a product that we haven't had in the market place before and, indeed, trade on the strengths of people and their history in the province. So I don't know how to answer better.

MR. ALEXANDER: Mr. Chairman, just two or three questions on Vencap for the minister. Perhaps I should know the answer to this, but do I understand correctly that the deployment of the funds being requested here is contingent upon the completion of the public issue of $45 million, plus or minus?

MR. PLANCHE: That's correct. I believe the number was $25 million as a minimum. The subscription hoped for is in the neighborhood of $44 million.

MR. ALEXANDER: Mr. Chairman, then I guess that presumes that if there is some reluctance in the market place — for example, to subscribe to the issue — the $200 million being requested would be held for the time being until the issue was completed, and no projects would be financed by the company. I guess that's a repetition of what the minister is saying. Whether this is the right place or not, I sincerely hope that were not the case, that the fund of $200 million being voted here could be deployed, if the opportunities arose, with or without the public issue. I don't know whether that's a matter of policy, but that's certainly a private opinion on my part. The merits of the issue aside, it seems some of these matters are very often, as the minister said, matters of timing; when the window opens, you need to jump into it sometimes. I hope a slow-moving public issue wouldn't hold up progress.

The second question I possibly should know also: is the company considering only minimum-size investments or funding? In other words, can smaller ventures be considered and funded by the company, as well as the larger ones?

MR. PLANCHE: I'm wandering into an area of expertise where I'm not at the same level of capability as the one who asked the question, Mr. Chairman. But my understanding is that the debate rages as to whether this is to be a best efforts, in which case we can dictate whether or not other than Albertans would be able to buy the stock, or an underwriting, in which case there is the possibility that after the Albertan subscription is satisfied, it would be sold outside the province to achieve the amount of the underwriting. That debate continues to rage. My judgment would be that if, for whatever reason, a best efforts was done and the subscription was in the order of $25 million, the $200 million commitment would be scaled down accordingly. It isn't contemplated that under-$25 million would be sold. It's going to be marketed in such a way that the subscription in fact is covered. By that I mean it will be brought to a level of attraction that the average investor will take it up.

On the issue of whether or not small companies would qualify, we consistently have talked in the order of $1 million. We did that purposely, because people in areas of smaller financial requirements shouldn't get their optimism level up because of this fund, simply because for each application for funding, there's a certain number of dollars for research. And when the dollars for research to assess the merits of it reach the level of the loan, clearly it's absurd. So the $1 million was a number, but that won't be part of the caveat on the loan; it will be left to the discretion of the directors. It was only put out by me in my previous releases as an indicator that for those who need small sums of money, this may not be a vehicle that's appropriate.

MR. ALEXANDER: If I may, Mr. Speaker, one more point. I think the minister was quite right in reacting to the suggestion about more centralized planning, if you like, of venture capital. That type of planning has tended to have a resounding record of underachievement. As a matter of interest, the Economic Council of Canada has analysed the net return on stimulated research and development over the last 20 years and calculated that rate of return to be about zero, which brings me to the point: management and, flowing from management, marketing are the two critical factors to make ventures pay off. I wonder if the company, Vencap, will have its own screening process for judging the management and marketing merits of these projects as they come to them or whether their plan is, by co-operation with joint-venture partners, to rely heavily on joint-venture partners to screen the management and marketing expertise.

MR. PLANCHE: Mr. Chairman, I think that would be a matter of individual project judgment. Certainly there is no question that the history of venture capital means hands-on, and we would expect an involvement of management as a rule. There may very well be an abdication of that responsibility to a joint-venture capitalist, or there may be some reason to believe that the management in marketing of the applicant is adequate. But it would be done individually and not as a matter of a rule or principle. Each application will be processed on its merit, and the loan or financing of whatever kind will be given conditional on, I'm sure, certain things that are deemed to be appropriate by those who are lending the money.

MR. McPHERSON: Mr. Chairman, most of my questions have been asked and answered. To the minister, the one question I have that remains is: my understanding of an equity venture company is one where obviously the company takes an equity position initially. Mr. Minister, would you mind outlining to me, and perhaps to the House, what is the normal procedure of a private venture equity company, which this one essentially will be, in terms of opting out of their position in an equity position?

MR. PLANCHE: It's to be expected that some of these will do better than others. It would be expected that how the stock is returned to the original entrepreneur, or made available to him over time, would again be a matter of individual negotiation. As a rule, I would think the venture capitalist would have control, but it doesn't necessarily follow. Some, as a matter of principle, don't want control. Once their position is taken, there's generally some kind of understanding — a contract, if you will — that the stock can be bought back at a certain price over time. If the company is faltering, the venture capitalist has enough control to merge it or send it into another direction with other owners, having divested himself of the stock, that affords him a maximization of his profit.

The people who are running Vencap Ltd. will be responsible to their shareholders, and they will have to balance that with investments that benefit Alberta. It's in that area that we're going to require very judicious management and a very active, talented board.

There is a variety of ways that the money can be available to a client. It can be in preferred shares, which don't vote but do have a convertible privilege and carry a low interest rate. It can be in bonds, which have a commercial interest rate but don't require interest or principal to be paid for a period of time. It can be in stock, where they simply are a part of the management and ownership. Or it can be in a blend of the three. All kinds of individual arrangements can be made, according to the merits of the proposition, between the applicant and the company.

MR. MARTIN: Mr. Chairman, to the minister, just to follow up our little discussion. First of all, I agree with

the minister on a number of points. I think we do face very special problems here because of our geography and because of the limited population compared to other parts. So there is no doubt that because of that, we are limited to some degree in the industries we pick for Alberta. I also agree with the minister on the arm's length. I think it has to be that way for government if it's going to operate well.

The other point I agree with the minister on is that I don't believe we are going to get the resource revenue that we got in the '70s, in the medium term — I believe that's the way the minister put it, Mr. Chairman — and that we are looking at a long-term project. Of course, we could disagree and say we could have started sooner, but we are at this point at this particular time.

What I am not talking about is state planning; that seems to be what everybody jumps to. First of all, there is not a corporation or a company that I know of that wouldn't sit down and say they've got to plan where they're going in the next three, four, or five years, or that company is not going to be in business very long. Surely what we're saying here — I'm not talking about hiring a bunch of government bureaucrats out of university somewhere and say, plan Alberta for us. That makes absolutely no sense at all, and that's not what I'm talking about.

What I was talking about when I talked about an economic council of Alberta, which I think would fit very well into this venture capital financing, is the idea that we first of all get the best minds we can from industry or wherever we can get them, pay them well, make sure they are the best possible people, and then get this council. This would be strictly as an advisory board to government that would work with venture capital. They would have a little better idea of what might be viable from the various economic segments of the population; i.e., business, labor, people that are going to be involved along with the people we're taking about. They would not have any authority in themselves but simply advise the government.

There are a number of countries where this is precisely what they do. I guess Japan is probably the best example. In Japan, they know that they have only certain industries that are going to work. But they knew very clearly which industries would work, and that's why they didn't spend a lot of time or money looking at things that wouldn't work. They had this group that I'm talking about advising them.

So I'm not talking about state planning. This is an advisory group to the government. The government can reject it and, of course, has the final say in the Legislature. But, Mr. Chairman, to the minister: I would see this following very much in line with what we're doing here. It would put it together, because I think there would be — and I'm sure the minister has said that there's always some worry. My worry about this not working to its potential is simply that without an overall idea of where we're going in, say, the next five, 10, or 15 years — not even in the medium term — people may be just guessing that this may be viable for Alberta; we'll try to go in, and here's some money to help out, but it's just a guess. I recognize that business is always a guess. But in terms of what I'm talking about, there are ways to narrow the guesses. It's not a massive state planning thing. There are enough examples around the world, and I see it fitting in very well with what we're talking about here. That was basically what I meant by that, Mr. Chairman.

MR. NOTLEY: Mr. Chairman, on a point of order. However much I hesitate to interrupt my colleague here, whose comments I share, I would raise a point of order and ask for your ruling on it. Orders of the Day were called. Under Orders of the Day, we have Written Questions, and we have of course heard quite a bit about the importance of putting written questions on the Order Paper. It certainly would have been appropriate for the Government House Leader to have asked at that time for unanimous consent to move directly into Committee of Supply. However, that unanimous consent was not obtained.

I did a little checking, and I am advised that it would have been only in order to have obtained unanimous consent to hold over the written questions. That being the case, it seems to me there is at least some possibility that we may in fact have jumped the gun here by being in Committee of Supply, when we have Written Questions as part of our specified Orders on Tuesdays and Thursdays.

I would recommend to whoever is Acting Government House Leader that at the conclusion — we have two ways of doing it. It would seem to me we could agree to go back: have the committee rise, report progress, and deal with that section. Alternatively, in a generous spirit of mind, I would agree to finish this part of the agenda and then, before we go on to anything else this afternoon, complete that part of the Order Paper.

DR. BUCK: Are you sure you could get unanimous consent for that?

MR. YOUNG: Mr. Chairman, I appreciate the generosity of the hon. Leader of the Opposition. I believe there was in fact an oversight. It had been our intention to ask that the questions stand today. We may be able to correct the oversight with the greatest economy of time by accepting the hon. leader's suggestion that this particular matter of business be completed, if it is going to be completed this afternoon and, at the point that it is completed and reported, then we would meet the formalities which would have been in order for the occasion.

MR. CHAIRMAN: Would the committee agree, then, that we complete this discussion of the Economic Development estimate. Then, when we go back into the Assembly, we will deal with the questions on the Order Paper? Is that agreed?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: Okay, we will continue. Are you ready for the vote?

MR. NOTLEY: Mr. Chairman, now that we have that matter out of the way. I am sorry I was out for a few moments, but I gather that the minister rejected the whole notion of an economic council of Alberta, on the basis that somehow this was massive state intervention, in the line that we're used to.

MR. MARTIN: No, it was the Member for Edmonton Whitemud.

MR. NOTLEY: It was the Member for Edmonton Whitemud. Oh, I see. The minister didn't say that. Well, I'm glad the minister didn't say that; the Member for Edmonton Whitemud said that. I think we should ask the

executive of the Alberta Federation of Labour what they think about massive government intervention.

Mr. Chairman, when we are talking about investing $200 million of public funds — that's a very significant amount of money, and I'm told that we're going to raise another $45 million from the private sector, 80,000 Albertans — I think we're looking at a very substantial operation here. Basically, Mr. Minister and members of the committee, my colleague and I have absolutely no quarrel with the concept of a venture capital agency of one kind or another. We have discussed this now for a number of years in the select committee on the Heritage Savings Trust Fund. I think there was no small debate on that principle over a number of years.

But, Mr. Chairman, the question is: is it not in the interest of Albertans that this venture capital company complement an economic strategy? Otherwise what is the point of putting public funds into it? It seems to me that any coherent economic strategy is going to have to involve some degree of planning. That's certainly true of all the large corporations. They plan well ahead of time. As my colleague pointed out, there can be different kinds of mechanisms. No one says that you want a planning mechanism that is going to draw up five-year plans that are totally rigid and that you have to stick within those five-year plans, that so many tires and so many tons of steel have to be produced, and this kind of thing. That's obviously not very workable.

Mr. Chairman, it seems to me that when one looks at some of the economies in the world — all the free market economies have been subject to difficulties, but the economies that have responded better than others have been those in which there has been some degree of economic planning. I just totally reject the argument that we should not have a planning mechanism, particularly when the taxpayers of this province, through their Heritage Savings Trust Fund, are asked to dig up $200 million for what could be a very useful tool. But in my judgment, that tool would be (a) protected and (b) more effective as a result of the kind of ongoing prospects that an economic council of Alberta could provide.

[Mr. Purdy in the Chair]

It's interesting to examine the approach of the Japanese because of their reliance on both government and business. Here we have a government that says that when it comes to exporting coal, we reject the notion of some kind of export board. But certainly the big importing companies in Japan have their own corporate consortium to import, which makes a good deal of sense as I see it — it certainly does if you're an importing country. But surely it's not unreasonable for us to examine what some of these countries have done, and not accept everything holus-bolus. I'm not suggesting that we should take the Swedish, West German, Belgian, Austrian, or Japanese models holus-bolus. What I am saying is that if we're going to invest $200 million, we need some kind of ongoing planning process. I guess there's a philosophical difference. The government is saying they think it would be better if we just say, these are the areas you can't invest in: you can't invest in real estate, nuclear energy, or water diversion. But surely, if we're going to have an activist government that is deliberately trying to diversify the economy, then we have to have some form of planning mechanism.

I would simply say to the minister, Mr. Chairman, that if we were next to the ocean or a major population area, perhaps we could slide by with the approach of a passive government. The market would be close enough, the economies of scale would be great enough that we could just sort of sit back and let the private sector do these things. We probably wouldn't even need to look at a $200 million Vencap company if we were in Ontario or had the advantages of being close to market. But we are a landlocked province, in the middle of a continent. Frankly, unless we have an activist government, I just don't think there is much prospect at all that we're going to diversify our economy beyond the most marginal moves. I don't think we'll have any better prospects of a diversified economy with a passive government than Sweden or Norway would have had 50 years ago if it hadn't been for even the conservatives of those countries recognizing that there had to be an activist role for government, there had to be a planning process, and there had to be investment in the kinds of industries that had some chance of surviving.

We don't have all the things going for us that — even four or five years ago, Albertans would boast that there was no limit to the potential of this province. Well, there are limits. There are limits imposed by geography that are extremely onerous. It's a question of how we overcome those limits. Not so that we get into manufacturing things that are completely useless, that won't work — we have examples. Governments of all parties, including my own, have got into things that didn't make sense, whether it be the Conservative government in Bricklin in New Brunswick, several of the early Douglas experiments in Saskatchewan, or some of the Social Credit experiments in B.C. There are all kinds of examples we can cite. But in most cases those examples, regardless of the government that has been in office, are there as a result of political pressures as opposed to sitting down and making some pragmatic judgment on the basis of objective evaluation of the facts.

One of the best investments the government of Saskatchewan made — and people may argue this, but I don't think many people in Saskatchewan would argue it today — was the potash industry, a long-term, sound investment. That's an investment which was made not on the back of an envelope but after the most careful evaluation of what the options and risks were. I would simply say to the government — not just the minister, but the government — that what my colleague is saying, and what I'm attempting to argue as well, is that if we're going to be involved in a significant way in providing venture funding, then to make that company accountable, answerable, and workable, the companion of this kind of public company is the inventory and the process of creating that inventory so we have some reasonable context in which to make public decisions and this corporation will have some reasonable context in which to make its investments.

MR. PLANCHE: Mr. Chairman, without wanting to extend the debate, I was interested in the member's comments about the merits of the investment in potash in Saskatchewan. He will know that the Potash Co. of America, Kalium, and IMC built the potash industry; the government simply bought it. It was only a transfer of money into the U.S., at taxpayers' expense, and not one thing happened because of it. That's not what we have in mind here at all.

On the issue of Japan, Mr. Chairman, the member will know that the banks are partners in most industry, and there is preferential financing. So the need for patient

funding isn't as apparent there as it is here.

Finally, on the issue of diversification, perhaps he was out when I mentioned that it was never this government's intention to replace Treasury activity with business activity in terms of diversification. As far as how we aren't going to go anywhere, I guess it's limited by the mentality of those who are thinking about it. As it presently exists, there are more people employed in Alberta in manufacturing than there are in agriculture. That change has happened over the last decade.

As far as Vencap goes, to suggest that it's floating aimlessly is a distortion. The fact of the matter is that they will have a business plan. Their investments will preclude too much risk in any particular sector. They do have the same kind of thing as an economic council, in terms of the board of directors. Those are all very talented Albertans who have a long list of solid business history.

Finally, I wouldn't want the Legislature to be left with the impression that we don't extensively use consultation with business in terms of the direction that economic development takes. While we don't have a firm, ongoing, in-place, fixed advisory board, of whatever name you want to call it, we certainly continually dialogue with people in sectors who understand what's going on and help us and give us direction.

Agreed to:

Total Vote 1 — Venture Capital Financing —	
Vencap Equities Alberta Ltd.	$200,000,000

MR. PLANCHE: Mr. Chairman, I move that the $200 million for Economic Development be reported.

[Motion carried]

MR. CRAWFORD: Mr. Chairman, I move that the committee rise, report progress, and ask leave to sit again.

[Motion carried]

[Mr. Speaker in the Chair]

MR. PURDY: Mr. Speaker, the Committee of Supply has had under consideration the following resolution, reports as follows, and requests leave to sit again:

Resolved that from the Alberta Heritage Savings Trust Fund a sum not exceeding $200 million be granted to Her Majesty for the fiscal year ending March 31, 1984, for the purpose of making an investment in Vencap Equities Alberta Ltd., a project to be administered by the Minister of Economic Development.

MR. SPEAKER: Having heard the report and the request for leave to sit again, do you all agree?

HON. MEMBERS: Agreed.

head: **WRITTEN QUESTIONS**

MR. CRAWFORD: Mr. Speaker, I move that the questions on today's Order Paper stand.

MR. NOTLEY: Mr. Speaker, I'd like to make some comments on the motion presented by the Government House Leader. We've heard a good deal about the word "fairness" in the last several days. I say to members of the Assembly that if we're going to recognize the importance of that word, then written questions have to be dealt with as quickly as possible.

While my colleague and I are prepared to agree to this motion today, I want to make it very clear that it's our view that there is no reason at all why these questions should not be taken on Thursday of this week. If we find another motion this Thursday to hold it over — and we all know that we're coming toward the end of the session. It's just not appropriate to say put in on the Order Paper if in fact we simply hold over questions. Once is reasonable, but we had to get into this debate once before in this session. Last session we had a scandalous situation where every Tuesday and Thursday we had a regular motion from the government to hold over questions and motions for returns. If we're going to make the written questions at all effective, on sufficient notice given by the rules of this Assembly, there must be an honest effort on the part of this government to respond quickly and expeditiously to these questions, and not just simply use their legislative majority to hold it over.

So, Mr. Speaker, I just issue that challenge to the government — not as a threat, because with four members in the opposition, that's a little empty — that today we will agree to the motion. But we expect that on Thursday, when this matter comes up again, the government will be forthcoming, willing to accept the questions, and willing to supply the answers.

MR. MARTIN: Mr. Speaker, I won't take much time, other than to say that many, many times we've been told to put it on the Order Paper. If this is going to be the principle, if this Legislature is going to perform its purpose of perusing public business, first of all, we have to have a number of answers that we haven't got in the past. It's easy to say no. The other thing is that it has to be done quickly, if this is going to be a legitimate means of trying to get information from the government.

If it's not, if each day we're going to say, let it stand, and we're not going to get this information — I don't know how much time is left in the session; various people are speculating about it. It could be that we don't even get it. The earliest we can try to get this information is not until the fall session, which may be October. So if we're serious about written questions, and the opposition — or government members, for that matter — is going to the trouble to ask these questions because they want answers, then it is incumbent on the government to answer them as completely as they can and, secondly, get them back to us as quickly as possible so we can follow up on it.

Thank you, Mr. Speaker.

MR. COOK: Mr. Speaker, on a point of order. I think my hon. friends in the opposition are trying to make a silk purse out of a sow's ear. The Order Paper of Friday, May 27, does not record the questions. They've only been on since Monday. I think it's interesting to see the opposition suggesting that we should have the government respond almost instantaneously to a very complex and detailed series of questions with a fair length to them as well. I'm intrigued that they're trying to make a big fuss over a very minor item.

MR. SPEAKER: May the hon. Government House Leader conclude debate on the motion?

HON. MEMBERS: Agreed.

MR. CRAWFORD: Mr. Speaker, normally I would not have anything by way of remarks on concluding debate on a motion like this, but it might give me the chance to put one or two things on record.

Mr. Speaker, I agree with the observations that have been made that questions should be answered quickly, depending on the complexity of each question. Within the ability to do so, that will be done. I think it is sometimes of little use to hon. members who ask questions if the answers are long delayed.

There are two other things, Mr. Speaker. If answers to questions are long delayed in certain circumstances, there is very often a good reason for it. If some of these questions were asked orally, the answer could only be that it would require checking, that it would be taken as notice and an answer provided. Sometimes the responses, whether the questions are written or oral, do take longer than others. I would like to think that all hon. members recognize that that is in no way reflective of an unwillingness to respond but is only relative to the complexity or difficulty of the subject matter.

In closing, Mr. Speaker, I agree with what the hon. Member for Edmonton Glengarry has raised. Without speaking to any of the questions on an individual basis, I just note that when the question relates to whether or not the government, any department, or any agency, of which there are an uncounted numbers — that figure probably exists somewhere; I think the figure is something in excess of 100 government agencies. When the question relates to that and to time periods going back to 1981, and asks specifically for a date or dates in those words, then surely it will take some time. If there are others that can be rapidly dealt with, we will do our very best.

[Motion carried]

head: GOVERNMENT BILLS AND ORDERS
(Second Reading)

Bill 60
Surface Rights Act

MR. FJORDBOTTEN: Mr. Speaker, I move second reading of Bill No. 60, the Surface Rights Act.

I would like to discuss in detail some of the underlying principles and more significant changes that are part of the Bill. Alberta has been blessed with agricultural and energy resources that give our province a solid economic base and will, I'm sure, continue to be the strength behind our economic development in the future. Unfortunately, energy resource development impacts on land that is used for agricultural production. This results in frequent differences between the activities of the industries that are carried out on that land. Those industries would like to have the minimum amount of impact on each other. While these differences might be settled by private negotiation, government has historically become involved in the process and has intervened at times.

Before discussing the legislation as it is now drafted, I would like to briefly consider three questions. The first question is, what led us to rewrite surface rights legislation; the second, what are the underlying principles of surface rights; number three, what relationship do they have to the legislation before us this afternoon?

Mr. Speaker, to rewrite the surface rights legislation wasn't an easy task or an easy decision to make. However, I believe we've been moving toward this moment since 1977 or early 1978, when unusual developments began to erupt on several fronts. The first was the start of a substantial climb in the workload of the Surface Rights Board and, second, the increasing concern regarding the level of compensation decisions made by the Surface Rights Board. While these increases directly reflected the rising number of licences issued by the Energy Resources Conservation Board, they also indicated a growing awareness among landowners of the effect that oil and gas well sites, pipelines, power lines, and telephone lines had on their operations. These concerns of the landowners were heightened by the increase in land values and by their own growing appreciation for the correlation between the activities of the energy industry and their own increasing operating costs and reduced revenues.

I don't believe concerns such as these had ever been seen before, Mr. Speaker. In fact, prior to the success of Leduc No. 1 in 1947, there was no surface rights legislation in the province of Alberta, other than what existed under common law. With the growth in our energy activities after that, a need obviously arose to establish more formal guidelines. Through the process of writing original legislation and amendments, our current surface rights legislation began to take form.

The crux of that legislation was the Surface Rights Board. It was established in its present format in 1972. The board was authorized to issue right-of-entry orders and hold compensation hearings for utility corridors in 1975. Despite these changes, I do not believe the basic common law has been substantially changed. The mineral rights holder still has the right to mine his property and the surface rights holder still has the resources and the recourse to demand that compensation for damages, inconvenience, and severance be considered.

Mr. Speaker, while we have a great number of comments on surface rights and references to how these rights have been changed or altered over the past 35 years, in effect I'd like to make it clear that nothing in Bill No. 60 contravenes the original principles of surface rights, at least as they were established soon after Leduc No. 1. What has changed in the last 30-odd years is the definition of damages, inconvenience, and severance. I believe it's to our credit that we recognize that damage or serious inconvenience can take place today in many forms. It is this principle that Bill No. 60 really sets out to try to correct. Even then, it's taken more than five years to reach this stage.

In 1977 I recall hearing the former Minister of Agriculture say that the Surface Rights Board was having some difficulty in keeping up with the rising number of cases before it. While the right-of-entry orders were being handled efficiently, compensation hearings were being further and further delayed, both by volume and by the same kinds of problems that plague our courts today. A considerable amount of inconvenience to surface rights owners took place through that process.

In order to study this problem in greater detail, as well as to study the rising concerns of the various aspects of compensation, a report from the Sibbald Group of Calgary was commissioned in 1978. There was another one in May 1979. A number of interesting trends emerged as well as ideas to overcome the then mounting concerns. At that time, the workload of the Surface Rights Board had tripled over the preceding five years to somewhere around 1,100 cases. That workload has since tripled again. When you consider that it's tripled again from 1,100 cases, that's

a significant increase in the number of cases before the board. Even more serious than that was the increase in the number of outstanding cases, which roughly paralleled the increase in the general workload over the last decade.

Two trends pointed out that our system was faltering and that some overhaul was certainly required in the whole system of handling surface rights. One recommendation of the Sibbald Group was to appoint surface rights mediators; another was to break down compensation awards into specific components. Mr. Speaker, because of the uncertainly raised by these questions and the growing concern among agricultural landowners that they were not getting the best deal out of surface rights with the explosion in energy activity around the province, a select committee of this Assembly was appointed on May 23, 1980, and was charged with carrying out a total review of the policies and legislation relating to surface rights in Alberta. Among the committee's specific tasks were, number one, to

> review existing and proposed methods of expediting claims directed to the Alberta Surface Rights Board;

number two, to

> examine the role of appointed surface rights mediators and make recommendations concerning their terms of reference and appropriate professional qualifications in the context of surface rights mediation;

number three, to

> review present levels of compensation to landowners and make recommendations for means by which these levels might be adjusted;

number four, to

> examine the role of landmen in surface rights negotiations and make recommendations concerning their terms of reference and appropriate professional qualifications;

number five, to

> review the ... Surface Rights Act, identify sections requiring amendments and make recommendations

for both improving and updating the legislation and the means by which we handle different aspects of surface rights.

With those in mind, the committee was established under the chairmanship of the hon. Member for Barrhead, and they went a great deal further than the topics that were identified. They went into other areas. They looked at soil and land reclamation and conservation, seismic activity, surface mining, well-site location, and major electrical transmission. Many of these issues were raised repeatedly in the 45 public hearings held by the committee in 1980-81.

The result of those hearings was a report which aimed to do two things: number one, point out where compensation for surface rights holders was inadequate and could be improved; and, number two, to improve the administration procedures of the Surface Rights Board and the huge workload that had fallen on the board during the last five years or so. Once accepted and included in some of the surface rights contracts, the new compensation parameters in Bill No. 60 might allow a greater percentage of surface rights cases to be settled prior to going to the Surface Rights Board for a right-of-entry order, and it might begin procedures toward a compensation hearing.

I believe those are the key elements behind the changes in compensation arrangements in Bill No. 60. Details aside, I think they tend to follow the tone and recommendations set out in the report of the select committee on surface rights and answer many of the concerns brought out, not only in public meetings but also in the more than 340 written briefs and reports it considered before writing its report. That report, tabled on November 30, 1981, was debated in this House just over 13 months ago. Looking back at *Hansard* of April 26, 1982, I found it to be one of the most wide-ranging debates we've ever had in this Assembly. It was a productive debate. Many points brought up, whether in support of or against the report's recommendations, were valid, and I think a great number of those concerns have been incorporated into this Bill. Since that debate in this House a year ago, extensive discussions have been held within government, within the two industries, and between government and the two industries in order to establish how the recommendations of the select committee could best be implemented.

Mr. Speaker, I'm sure you will appreciate that the consultative process we've been involved in has resulted in some delay. For that reason, last fall the government made a commitment to introduce a new Act that would contain the major principles outlined in the select committee report. The fulfilment of that commitment is Bill No. 60, and it introduces a number of new concepts which meet many of the concerns raised during the select committee's activities.

Since that time, many verbal and written briefs have been received by members of this House. In bringing this Bill forward, I determined that the range of the amendments to the existing Act would have really increased the workload of the board. I had great difficulty with that, because that would complicate the issue. So we decided to rewrite our surface rights legislation and have brought the paperwork down to one-third the size it might have been had we just made amendments. With the amendments, the Bill would have been significantly more complicated.

While not all the concepts require us to make substantial changes in the Act, they do have an impact on the nature of how surface rights are going to be dealt with in the future. Those concepts include the select committee recommendation that the membership of the Surface Rights Board be expanded to ensure local expertise. While no legislative change was required to accommodate that, it's my intention to test whether this concept is workable, through some sort of pilot project involving both local landowners and industry representatives. We hope the pilot project will answer some of the concerns about the nature of quasi-judicial boards, and the energy industry is concerned about local members dealing with some of the local issues.

The second concept is the select committee recommendation that much of the right-of-entry process be transferred to the Energy Resources Conservation Board and that the Surface Rights Board deal only with compensation. After a lengthy review of this recommendation, we concluded that the prime intent of that recommendation was to establish a firm link or bond between the Energy Resources Conservation Board and the Surface Rights Board. While I appreciate the confidence that has been placed in the Energy Resources Conservation Board and select committee public hearings, I refer members to the sound advice of the hon. Member for Chinook. On a number of occasions he has said: if it ain't broke, don't fix it. It was working well. We needed to establish that strong link, and I believe it's there.

So what we have in mind is that the Surface Rights Board will continue to issue the right-of-entry orders and

carry out the compensation hearings. We propose to establish that firm link or bond between the two boards by ensuring that prior to making a decision, the Surface Rights Board obtains all the information it requires from the Energy Resources Conservation Board. We intend that the negotiation process on the topic of site selection be continued under the purview of the Energy Resources Conservation Board and that the results of the negotiations be part of the information available to the Surface Rights Board.

The legislation also contains a number of items which implement the intent of the recommendation of the select committee with respect to inspection, the decisions and awarding of costs, and the recognition of expertise. While the actual procedures used will be defined by either the Lieutenant Governor in Council or board regulation, the changes are intended to permit full input from all interested parties to recognize the value of relevant experience to ensure that justice is not delayed in any of these cases.

To date, Mr. Speaker, most of the discussion has focussed on the select committee's recommendations regarding compensation. The Bill deals with a number of those recommendations. Under the new legislation, the onus for giving the notice of renewal of surface leases will shift from the landowner or occupant to the energy industry operator. The operator will be required to give written notice to the lessor on the fourth anniversary of a surface lease, advising that negotiations can take place to determine the rate of compensation for subsequent terms of the lease. The legislation also allows for board orders and surface leases, primarily involving well sites, that were entered into prior to 1972. Similarly, it will allow for renegotiation of board orders and surface leases for major power transmission lines entered into prior to 1977. Once the legislation is approved, and if private negotiation in these cases is not successful, the Surface Rights Board will then allow lessors to apply to the Surface Rights Board for an order that would vary these issues, but not until after June 1, 1985.

This legislation also introduces a new concept; that is, the entry fee. This fee will be a one-time, initial payment by any operator seeking access to the surface of privately owned, deeded land, and it will be in addition to any other payments that might be awarded under the compensation process of the Surface Rights Board. The entry fee shall be paid prior to access and shall be at the rate of $500 per acre or part thereof, and not less than $250 and not more than $5,000 for each titled parcel. The entry fee will apply only to undertakings that might take place under the Surface Rights Act, and it will not be payable on Crown lands. Crown lands will not be included in the entry fee.

In general, the entry fee will apply only to energy-related activity conducted by or through private operators. Almost all actions taken by municipal governments will continue to be handled under the Alberta Expropriation Act. In addition to the payment of the entry fee prior to access to the land, when the surface agreement has not been established and a right-of-entry order has been issued, the operator will be required to pay 80 per cent of his last written offer to the owner/occupant prior to entry to the land. The remainder of the compensation would be payable after completion of the Surface Rights Board compensation hearing.

This piece of legislation can also make changes to the definitions governing compensation. Value is now defined and becomes:

> (a) the amount the land granted to the operator might be expected to realize if sold in the open market by a willing seller to a willing buyer on the date the right of entry order was [granted],
>
> (b) the per acre value, on the date the right of entry order was made, of the titled unit in which the land granted to the operator is located, based on the highest approved use of the land . . .

As well, in determining the compensation payable, the Surface Rights Board may ignore the residual and reversionary value of the lease site to the owner or occupant of the land. This aspect will only become a factor in future negotiations, although it will become part of the procedure to be followed by the Surface Rights Board in cases now before the board. Along with other sections of the Act, when implemented it will be subject to the Alberta Interpretation Act.

Mr. Speaker, the legislation agrees with the select committee recommendation that the time period for settlement of disputes be extended from six months to two years. By extending that time frame, it provides for a more realistic period to assess damage. It also concurs in the recommendation that the Surface Rights Board's jurisdiction be extended to a dollar value that's really more in keeping with the realities of today. The legislation sets a limit of $5,000 on that jurisdiction.

A number of the select committee's recommendations did not impact directly on this legislation. For instance, our accepting the recommendation not to appoint surface rights mediators requires no change. However, the concept behind the mediator approach may be resolved through a closer connection we're trying to establish between the Energy Resources Conservation Board and the Surface Rights Board. Some recommendations were set aside for further study. As an example, I use the recommendation that would create a library of surface rights agreements. While it's my intent to create a computer file for right-of-entry orders, I'm not yet satisfied that a similar file for surface rights agreements is really appropriate at this time.

Finally, a number of recommendations fall within other jurisdictions or have already been implemented. They have been referred to my colleagues for review and possible inclusion in their program adjustments. I want to examine a number of them. First, we are in general agreement that much needs to be done to ensure that site reclamation is done quickly and correctly. While reclamation is dealt with under the Land Surface Conservation and Reclamation Act, we included a section in this legislation to allow for consistent surface agreements, with specific emphasis on compensation and completion of reclamation after construction on site.

Second, the select committee made certain recommendations regarding seismic and geophysical activities to ensure that local municipalities were really aware of who did what. While this can be dealt with through the geophysical regulations or, if damage has occurred, by the water well recovery program administered by my department, the issue of access is of course raised. Similarly, entry for survey and test drilling raises this concern. It's my anticipation that we have further clarification of these questions through the results obtained from the Environment Council hearings into land use that are going to take place across this province.

Third, while we generally accept the recommendations regarding flexibility in location, spacing, and drilling that would minimize the impact on agricultural production,

there is an established process to deal with these concerns under the jurisdiction of the Energy Resources Conservation Board and, to a very large extent, this process has been changed to reflect the concerns of the select committee.

Mr. Speaker, my comments were really designed to sum up various changes in the legislation we're now bringing into place. I very much appreciate the work and commitment put into the report of the select committee on surface rights and the rather extensive input I've received in the last number of months from members of this House. Because of the nature of the development of this legislation and because it's taken many months to do it, I say to those members, thank you very much for helping me develop the content and policy behind this legislation and for your participation and interest. To the landowners, occupants, and the energy industry, I say thank you for your comments and advice. The result is here before you. The intent — and it's very important — is to ensure that there's a continuing balance of compromise between the two industries that are the basis of our province's economic development and prosperity.

Thank you, Mr. Speaker.

MR. NOTLEY: Mr. Speaker, in rising to address some comments to Bill 60, the Surface Rights Act, I'd also like to pay tribute to the members who sat on the special Select Committee to Review Surface Rights. I think the report, which was tabled in the Legislature and became the basis of a discussion a year ago, was an important document.

The minister outlined some of the history leading up to the introduction of Bill 60. I recall that one of the first pieces of legislation in this House that I remember distinctly dealing with surface rights was in 1972, when we had changes made in the operation of the Surface Rights Board. Before that it had been called the right-of-entry arbitration board and, in 1972, it was changed to become the Surface Rights Board. Some of the changes made in 1972 were useful reforms. For example, we had the concept of periodic review of leases. Before that time, awards that had been given under the old right-of-entry arbitration board had remained in place for 15 years, between 1947 and 1962. So I think we saw some useful reforms in 1972.

But having said that, Mr. Speaker, there were still many problems associated with the question of right of entry as far as the energy industry was concerned. I personally thought that the special select committee had weighed the balance between the energy industry on the one hand and the rights of landowners on the other, and had come up with a number of proposals which, in my view at least, were quite constructive and practical. To the extent that this Bill contains those proposals, it will be our intention to support it on second reading. But to the extent that some of those recommendations have been set aside, watered down or, in at least one or two cases, rejected, we would be less than honest if we didn't express our disappointment on that aspect of the legislation before us today.

Mr. Speaker, I want to deal in a little more detailed way with what I consider to be the principles in the board, and contrast the principles as I understand them in reading Bill 60 with the recommendations of the special select committee. It's important that we remember that what's at stake here is a very important right of the landowner to be treated fairly. And I say "right" deliberately. Except in a very small number of cases, of course, landowners don't have mineral rights. Ninety per cent of the mineral rights in this province are owned by the Crown. Of the remaining 10 per cent, a very negligible percentage is actually owned by individual farmers. So we're really dealing with a situation where the mineral rights are owned by the Crown. Once those rights are auctioned off to energy companies, to operators, they obviously have to have some access in order to drill. But in the process, they create all kinds of problems for the landowner.

How many of us as members in our respective constituencies have not had occasions when constituents have come to us and not only complained about right-of-entry payments but some of the problems with reclamation. I remember one case in my constituency where a well site had been drilled and where, quite frankly, the operator had done a really terrible job of cleaning things up. It was an awful mess, weeds all over the place. The reclamation simply hadn't been done properly at all. That matter was finally resolved, not because of the Surface Rights Board but because of threatened publicity. As a result, the operator cleaned up his company's act and this particular matter was settled. But we all know of cases in our constituencies where there have been problems.

While it's fine to talk about the need for balance between the operating company and the landowner, I want to underscore that we have to remember that for the most part we're dealing with people who live on a piece of land, in some cases own it, have farmed it for years, and they suddenly find themselves with the nuisance, the inconvenience, of having a well drilled. While I know that sometimes the settlements might seem attractive if one is sitting quite far removed, if you live a few hundred rods away from a well site or your well water is no longer any good because of seismic testing in the area, it's a little different story. These are the kinds of practical things landowners raise over and over again.

Mr. Speaker, having said those things by way of background and underscoring in my submission the point that I think landowners' rights have to be carefully and jealously guarded, let's take a look at the principles contained in Bill 60. I want to deal first of all with the membership of the board. The special select committee made a recommendation with respect to local farmer representatives. The argument was that this would provide local expertise. I thought that was a good recommendation, and I'll tell you why just in terms of my experience over the years with ADC committees. One might sometimes question the method of appointment of some of these committees. But one of the advantages of the ADC committee approach is that you have local farmers from the different areas who know the situation in their districts and can give practical advice. I've been at ADC meetings with the local committees where government officials, district agriculturists, people who are well trained — now we don't have that because we have ADC representatives — whose sense of what was and wasn't reasonable was all in a book, as opposed to the local farmer from Bear Canyon, Hines Creek, or Eureka River who knew the situation and was in a position to say, it's possible to make an investment in the case of this farmer because he knows what he's doing or in this particular parcel of land because it has some potential for agricultural production; I know the situation. That's one of the advantages of this concept in the committee of local expertise being part of the arbitration process.

The minister has indicated that he's going to launch a pilot project to see whether it works. When you're dealing

with a board that has quasi-judicial powers, I'm well aware of the difficulties of where you draw the line between people who may sit on several sets of hearings and then may not sit on another set of hearings for 10 years or perhaps never again. But, Mr. Speaker, the point made in the special select committee report is nevertheless of sufficient merit that I hope the government doesn't just stop at a pilot project. I hope they would consider that recommendation as a good one.

Mr. Speaker, I want to deal with the procedures. The special select committee made a number of points I thought were useful, but I want to underline three points when it comes to what one might describe as procedures: board decisions should be "in written form and issued within 14 days of the compensation hearing", a library of surface rights agreements should be established to be kept by the board, and the board "recognize the landowner-farmer-rancher as an agricultural expert". We've dealt in part with the latter one, but I want to deal with this question of the library of surface rights agreements in a little more detailed way.

The minister indicated that this information will apparently be kept on a computer file. I wonder if it wouldn't be a good deal better if, in fact, we had a library, following the recommendation of the special select committee, so people have some ability to get access to agreements once they've been worked out between the landowner and the operator. We have some landmen in this province who are very professional, who do a competent, professional job. But I also know cases where people aren't aware of their rights and where they've been skinned, where they have settled for settlements that are just completely ridiculous because they didn't know what their rights were. You then look at this so-called agreement, and you almost cry. People went in, they hadn't the foggiest idea — someone comes in, offers them what seems like a lot of money but has no relationship to settlements in other parts of the province, what the real value of the land is, what the inconvenience is. This is especially a problem when you get oil development surfacing for the first time in an area where it hasn't been active before. It's certainly not in a situation where you have a strong landowners' group, like the Bear Lake group west of Grande Prairie, for example, where people have a good sense of their rights and have a lawyer bargaining for them. We have a fair amount of mineral activity in the area west of Olds where I was raised. The farmers, including many of my relatives, are knowledgeable of what they should be getting, and get it. They have an understanding of the name of the game. But there are parts of this province where that isn't true, and there have been examples of people who have settled for amounts that are just way, way too low.

Mr. Speaker, the next provision I'd like to deal with is the force-take provision. Here we have a change in the committee proposal. The recommendations of the committee had been that an entry fee of $1,000 an acre be paid, to a maximum of $5,000. We now have the force-take provision modified to $500 an acre, to a maximum of $5,000 for each land title. I ask the minister, perhaps in concluding debate, the reason for the modification of that recommendation. When you're in a position where that landowner hasn't any choice — mineral rights have been auctioned off by the Crown; the operator is coming on — it seems to me that because of that force-take provision, the original proposal of $1,000 an acre is not out of place. Perhaps there has been a slight pause in land values from the time the committee reported; in the odd case, even a decline. But I anticipate that to be essentially temporary and, that being the case, I wonder why we have in a very dramatic way cut in half the force-take provision on a per acre basis. I would welcome a response from the minister when he concludes debate on what, other than the pressure of the energy industry, caused the government to make that change.

Mr. Speaker, there are several other points I want to deal with. The operator makes the initial payment, 80 per cent of the compensation offered in the written offer for the first year of compensation, and then if there is an award that makes up the difference, we have a provision in the Act which says: may pay interest. If the operator owes more to the owner, the board " may order the operator to pay interest" at the Bank of Canada rate on the compensation from the date of the right-of-entry order.

The committee recommended that the language used in these sections be stronger. As I recollect the committee report, the use was not "may" but "shall". For the sake of argument, when you have a right-of-entry order that says that instead of $8,000 it's going to be $9,000 on that additional amount, why is there not a firm commitment that it will be "shall" as opposed to "may"? Surely "may", leaving it up to the board, is just another pressure point that really is unnecessary. Is there no strong argument that if additional funds have been granted for a right of entry, the operator should pay the Bank of Canada interest rate for the period of time taken as a consequence of the process? What's wrong with that? Why get into a situation where it "may", at the discretion of the board? We will have yet another bit of paper work, if you like, where the board is going to have to decide: in this particular instance, should we apply that or not, or should we apply some other formula? It seems to me that the committee recommendation was fairer for the landowner and probably more workable from the standpoint of the board itself.

Mr. Speaker, I want to briefly touch upon two other areas: the review of compensation orders before and after 1972 may be made by the board, and sections dealing with pre-1972 orders do not come into force until June 1, 1985. It was felt that the five-year notice of review is too long. Our feeling is that it should be reduced to three years.

I want to deal with the pre-1972 question for just a moment. When changes were made to right-of-entry legislation in this province in 1972, we had a situation where some operators voluntarily upgraded their lease rentals. However, that was not universal. Some operators simply took the position that there was not going to be any review, that a deal was a deal and that was that. The pre-1972 orders can now be upgraded, but not until June 1, 1985. It seems to me that that is probably not necessary. I see no reason why we shouldn't be in a position to say to operators who have pre-1972 orders, that rather than wait until two years down the road they should have to upgrade their rentals. If there is some rationale for that change, I'd be interested in learning it. Given even a debate that has occurred on occasion in this House, I really wonder why we have inserted June 1, 1985, as the time when the sections dealing with pre-1972 orders take effect.

Finally, Mr. Speaker, the question of termination of right of entry. The board may settle disputes about damages if the application [is made] within two years and the claim is not more than $5,000. On page 23 of the select committee report, it is the committee's view that

neither the time limitation nor the dollar limitation is adequate, and the committee recommends that the time frame be two years and the dollar limitation be $25,000. I ask the minister if, in summarizing debate, he could advise the Assembly what the reasons were for that particular modification.

Mr. Speaker, I want to say one additional thing. In our submission, this Act doesn't make any provision for directional drilling. Another area that I think is important is the question of water use related to heavy oil extraction. Members on both sides of the House have expressed a good deal of interest in developing the heavy oil deposits in the Lloydminster-Wainwright area. Many wells have to be drilled, but in our view — or at least in the view of farmers who have brought this to our attention — the impact that's going to have on ground water could be pretty significant. That being the case, any review of surface rights legislation is going to have to have some special reference to the demands on ground water for any major expansion of the heavy oil fields in this province.

Having said that, there is little doubt that Bill 60 represents a significant improvement. It's not perfect. Mind you, Mr. Speaker, it's being introduced by a Conservative government, so that in itself creates some obstacles. I would say, not with a smile but as strongly as I can, that as the government reviews Bill 60, the more the government can get back to the recommendations of the special select committee, particularly those which have been modified in part, the stronger will be the protection of the rights of the individual landowner in the province. No one is saying it isn't necessary to strike some sort of balance. The fact of the matter is that it is the landowner who has to bear the inconvenience. It is the landowner who, if you like, has to pick up the consequences. Sometimes the consequences of having a well drilled close to or on the farm can be very unpleasant indeed.

Having said those things, Mr. Speaker, it nevertheless will be the intention of the Official Opposition to support Bill 60 on second reading.

[Two members rose]

MR. SPEAKER: I happened to see the hon. Minister of Consumer and Corporate Affairs first, by a nose, a short nose.

MRS. OSTERMAN: Thank you, Mr. Speaker. I'm glad you described my nose as short. Not all people would have described it in that fashion.

It's a pleasure today for me to make a few comments in support of Bill 60 and some general observations in the area of surface rights. Certainly I know the very strong interest of many of my colleagues in the House, especially those who served on the select committee and toured this province in what was almost a marathon exercise. I'm not sure what it could be compared to, but it was an undertaking that required quite a lot of endurance not only mentally but physically.

Mr. Speaker, my interest in surface rights goes back to 1966. The minister has already done an excellent job of going back in time and describing the situation, as well as giving an excellent overview of the contents of the Bill. In those days we had the right-of-entry arbitration board. But one other board that hasn't been mentioned was the Public Utilities Board. At that time, the Public Utilities Board dealt with compensation with respect to power lines. Of course no consideration was given to any above-ground structures that were left in place on easements with respect to right-of-entry arbitration or left in place as a result of fixtures for pipelines and so on. With those two boards and the legislation that operated — in the first place, I think the landowners at the time that were affected by projects of various kinds were few and far between, so there wasn't a concerted effort across the province to really make changes.

But that began to change fairly rapidly. We saw the beginnings of a number of pipelines, in particular, and more well drilling. But that didn't seem to be as large a problem as the pipelines and power lines that suddenly blossomed around the province. I suppose that was indicative of the burgeoning of enterprise in this province with respect to both the need for electricity and the expansion of the energy industry itself.

In those days we had a farmers' organization called the Farmers' Union of Alberta, which had a component that was their members' services group. It was headed by a fellow who was very energetic and crisscrossed this province in support of the few who were interested in surface rights. His name was Helmut Entrup. Of course we all know that he went on to become the Farmers' Advocate and played a very strong role in bringing to our notice the concerns that the agricultural community has been raising over time with respect to the various installations we all look at under the surface rights umbrella.

Mr. Speaker, in 1966, on our own land — and I've mentioned this in the Legislature before and in my maiden speech, because in May of 1979 I had the very proud opportunity to deliver the first speech moving adoption of the Speech from the Throne for the 19th Session of the Alberta Legislature. I can't believe it's four years ago. Of course a major component of that speech related to surface rights. I think a reading of *Hansard* would show that many of my rural colleagues at that time also mentioned that particular problem as they saw it and as it was brought to their attention. As the minister mentioned, we could see concern building, although it had been addressed in '72 and '76. The very rapid escalation of the number of projects required in this province obviously brought to everybody's attention the need to continually look at the evolution of the legislation.

I recall when I knocked on doors in '66 to speak to farmers who were involved in the power line that was soon going to be present on our land. Out of possibly 150 calls, I found about 15 farmers who really felt there might be a possibility of making representation and changing the way things were looked at in those days. I don't think any of us at the time really thought about the need of changing legislation. We thought it was just a matter of getting somebody's ear who understood and heard these things, and that somehow, magically, it would happen. I don't think any of us who got involved realized the long venture we were embarking on. It became almost a pet project of mine. I began to wonder what I would do if suddenly the surface rights problems were solved.

Mr. Speaker, it culminated in 1972, I think, for the most significant advance. I recall that it was Bill 64, the Surface Rights Act. My first time in this Legislature was somewhere over on that side, speaking to a committee chaired by Mr. Zander, a member then. We were speaking to various aspects of Bill 64. I can remember a very strong lobby by some people in the energy industry and professional people attached to the energy industry, who took great exception to a number of the proposals. It was a major advance, in my view, in terms of the protection

of the rights of landowners.

We went from '72 to '76. I think that was about the time the rental on above-ground installations was addressed, particularly with respect to power lines. That was a major announcement. Mr. Speaker, through all this and the changes that eventually came about, in my view there seemed to be one thread that ran through the concerns of particularly the agricultural industry and those people who were landowners, because not all of them were directly involved in agriculture. One thread that could be traced right through was that we not only needed to address land value as it related to a fair market value, but there was something very intangible that no one seemed to be able to put their finger on. It seemed to relate to the very strong view of the agricultural community that they had lost something. It couldn't be identified in a clause in section 23 of the Surface Rights Act to really outline that very specific intangible that seemed to be the gut feeling of the people we heard from right across the province.

That was going on in '66, in terms of the people I was working with, and it showed itself very strongly when the select committee crisscrossed this province. It had no relationship to the market value of land, but there was a great sense of loss felt by landowners, who said: we believe we've lost a right; there is an entry upon our land without the full recognition of what that imposition means. There was a strong feeling that that needed to be identified.

Of course it was eventually identified in this new Surface Rights Act in the form of a right of entry. Mr. Speaker, I think that addresses some of the fairness and equity we've tried so hard to achieve in terms of looking at the agricultural community and recognizing that there is no difference for those people who live in the gray-wooded soil areas, like the constituency of the hon. Member for Drayton Valley, and the incredible impact there from projects that go back for more years than I can count. It goes back to the late 1940s, if I'm not mistaken. The impact of those projects is still seen today.

That impact, in terms of farmers' rights, is no less real to those people, whether their land is worth $400 an acre market value or we're speaking of land value in the neighborhood of $2,000 an acre for those of us who live closer to a major urban centre. The rights of those people in the Drayton Valley area, or wherever they're performing their agricultural operation, are no less than those of us who happen to be farming in an area where land values have escalated. So we now see in this Bill the birth of a new idea, if you will, to try to reflect in a fair way across the province that imposition of the right of entry on particularly the agricultural operator.

Mr. Speaker, for those of us who have constituencies that reflect both sides of the question, the urban and the energy view as well as the agricultural view, the difference in attitude is interesting. I think that over time those of us who are romantics, in terms of how we look at our land and the very strong feeling we have for it, identify in a much different way and to some degree have lived in a slightly different way. Our views are always long term. Maybe we're always looking to the next year, when we're going to have a better crop. It's always a "next year" country. We have a different feeling for the land. I guess that different feeling comes out in ways that we sort of have an attitude of protection of the land rather than exploitation.

It's interesting that many of the people I represent — in terms of my reflecting and trying to understand the urban view, if we look at parks in some of the small towns or major centres, there's a different view as to the urban residents' right to those parks, or right to some special benefits as a result of living in the urban centre, that I don't think in their wildest dreams they would ever believe could be impinged upon because a government decides that it would be in the greater interest of all the public to, say, drill a well — which obviously would be perfectly safe — in the middle of Fish Creek park. The hon. member looks up and maybe shows some concern or just interest. I think that, if anything, probably epitomizes an attitude that for the urban person is very secure.

I don't think urban residents believe there's any way expropriation would suddenly come to them in terms of the greater interest of all Albertans for the development of the private sector. I realize there are projects in the urban centres that are for development in a public way, but not in terms of the private sector. Even in my constituency, when wells or pipelines are placed immediately adjacent to even a smaller urban centre, we have a very great hue and cry in terms of their belief that somehow they are going to be impacted in a negative way.

It's interesting, Mr. Speaker, that if we're a farmer, we can have one of these major power lines just outside our door or a sour gas well not very many hundred yards away. But if you were to put that well adjacent to one of the towns in my constituency, all something would break loose, and I think we all know what that would be. So there's a difference in attitude. Somehow we have these wide-open spaces out in the agricultural community, and therefore we shouldn't get excited about a project next door. Maybe that's because there's only one of us or one family affected and not a great group of people. So there has been a difference in attitude. I think that has somehow translated itself into two factions that seem to war over what is fair in the surface rights area.

I think about the discussions within our own group and the hon. minister, who had to be in the middle of those discussions. I must say that for an agricultural person, he exhibited a fairness that made me angry at times. I realized he was being fair. But I wasn't sure I wanted him to be fair in his looking at the whole matter, trying to wear two sets of glasses, that of the energy industry as a whole, whether it was power lines, well sites, or pipelines, and the other set that reflected the agricultural community.

The minister had an incredible task to try to rationalize the forces that were strongly, and rightly so, presenting the views of their various constituents. If at times we had a battle royal, the minister is now sitting in his place fairly well put back together, having kept everybody at arm's length, somehow getting us to agree that this was a fair piece of legislation that would treat both ends of the spectrum in a way that to some degree should satisfy those communities involved.

Mr. Speaker, in my view the story on surface rights has only just begun. I think the history has been a brief one. I think those of us who made comments in 1966 and then ended up on the floor of this Legislature in 1972 to make further comments about what we saw happening to rural Alberta and what eventually would be the impact of all these projects on the rural community, are now seeing the reality of what were just gut feelings and projections at the time. They're with us now. I think we've only scratched the surface.

I suppose many hon. ministers in this House have before them a constant request for policy that reflects the user groups in this province, whether it's public lands or a whole host of areas: agriculture, energy. All of us, wheth-

er urban or rural, put incredible demands on the land in this province. I hope those of us in agriculture will always feel moved, I suppose notwithstanding our strong feeling about what ownership means to us . . . Rightly or wrongly, we're not lawyers. We came to have an understanding of ownership. I suppose that understanding could be called into question at times. Still, we had that understanding. We felt that somehow our rights were being diminished. But we also realized that for the greater good of this province and possibly the country, from time to time many of us are going to have to give up things.

Mr. Speaker, the agricultural community is still there. They're closest to the land. They have the responsibility not to mine the land but, I suppose, to be protectors of it in whatever fashion they can. From that particular vantage point, we will not only stand up once in a while, thump our desks, and say we believe there has to be a fairer and more equitable way of finding and bringing forward solutions that will address that for the agricultural community in terms of dollars. Because after all, we're not philanthropists. We have to make a living. With costs being what they are, there's far greater attention to the dollars being paid. But I believe our overall concern in the agricultural community is to make sure we always have policies in place that leave us in a position to protect that land for generations to come and leave us a voice, if you will, in this Legislature and other places where it's necessary to make sure that the public understands what's happening to that land and why we request from time to time the kinds of changes to keep in place protections necessary for future generations.

Mr. Speaker, thanks to the very hard work of a number of people, in particular the Minister of Agriculture, I'm pleased that in 1983 we have before us a Bill that reflects what most of us now believe to be the needs of the agricultural community and the energy industry to both do our jobs. But as I said, I think it is only the beginning. Nineteen eight-four is just around the corner, and we're going to see all sorts of weird and wonderful things that probably we can't even contemplate now as we are in our places. A few years from now another member will stand in his place, speaking to probably what will be considered other major changes to this Bill 60, the Surface Rights Act. I look forward to the continual evolution of surface rights in this province and, hopefully, the open minds of both the energy sector and the agricultural community to do what's best for both those sectors and, more importantly, for coming generations in this province.

[Two members rose]

MR. SPEAKER: With respect to the hon. minister, the hon. Member for Drayton Valley has been trying to catch my eye for, I think, the last three turns.

MRS. CRIPPS: Thank you, Mr. Speaker. I'll be brief. In fact Bud's supposed to pinch me if I'm over five minutes, so I don't intend to be over five minutes. Mr. Speaker, I have a special interest in the principles involved in Bill 60, as I represent a constituency which is equally reliant on agriculture and a healthy oil industry. I try to represent both of them fairly.

One of the main issues raised with me over the past four years has been surface rights. In my first session in this Legislature, I introduced a motion associated with the location of wells in the central quadrants of the fields. I'm pleased to say that's been resolved and changes have been made. I won't discuss the very important issues of water management and our lack of knowledge of the aquifers, nor the preservation and conservation of topsoils, although I want to emphasize how important those are to the province and to the future of Alberta.

There were over 200 briefs presented to the select committee. During those hearings, we were bird-dogged, as the saying goes, by William N. Richards and Francis C. Price Associates, who followed the hearings with great interest and were at all our hearings, if I remember rightly, or indeed the vast majority of them. They wrote a report for the oil industry. I want to highlight a couple of points in that report, because I've received many letters concerning the impending surface rights legislation.

On page 84 of that report, it says:

> The writers have reviewed many of the submissions made by the resource industry, landmen, farmers and lawyers to the Select Committee, including the submission of the Canadian Association of Petroleum Landmen.

As a result, they predict the following changes. I want to highlight those predictions, Mr. Speaker. Number one, the location of well sites. As I've said, we've done that. Number two:

> Annual rental will be paid on pipelines.

Number three:

> The review period for annual compensation will be shortened from five to three years.

Number four: an information bank. Number five:

> Annual compensation will become reviewable with respect to leases and orders which were in existence prior to 1972.

Number six:

> Mediation will become part of the process . . .

Seven:

> The professional status of Landman will be recognized . . .

Eight:

> That legislation will be passed similar to s. 55 of The Expropriation Act that residual value is to be ignored.

Nine:

> Political realities will ensure that the present policy of awarding compensation beyond fair market value for the surface rights required by the resource industry will continue.

Mr. Speaker, I wanted to highlight that because of some letters I've received. I believe our recommendations in the select committee report were more balanced than the ones in this document. I noted that I've had concerns raised with the entry fee concept. As the Member for Three Hills suggested, one of the major issues raised at all the hearings was the loss of ownership rights when it came to dealing with the right of entry by an oil company. When the minerals are sold by the government, there's a guaranteed right of entry, either by agreement or by a right-of-entry order. This essentially erodes any objection a surface owner may have to restrict entry onto his property.

I believe if this right of entry is seen to be fair [by] not only the oil companies but also the surface owners, the negotiation of these leases will be more effective. I also believe that the proposals for annual pipeline rental and three-year renegotiations would have been extremely detrimental to the oil industry, both in administration and in costs. The report has been soundly criticized by surface owners for not recommending these items. Yet the oil companies have not mentioned these non-

recommendations as being beneficial to them. I believe it's important to point out that it is beneficial to them, and that the committee withstood extreme pressure to include these recommendations.

I would like to highlight briefly the problems with the board orders prior to 1972. I'm reading from a file, Mr. Speaker. Board order 12369, dated May 21, 1958: the annual rental is $105.60. Board order 86259, dated June 5, 1959: well site and roadway, $100 annual rental. That's one of the reasons we have so much conflict between the older well sites and the more recent ones.

Mr. Speaker, one problem not addressed was the assignment of compensation. In rural Alberta, where wells have been in existence for many years — Turner Valley, Drayton Valley, Redwater — this problem surfaced and was highlighted many times. I hope the government will continue to look at the real reason for annual rental, with a view to assuring that the payment for loss of use and inconvenience will serve the purpose for which they are paid.

As a member of the select committee, I know how difficult the decisions were, and the hours the committee spent grappling for a fair and reasonable conclusion. Of necessity, the evaluation and production of mineral resources involve not only the mineral owner but also the surface owner. The Surface Rights Act must ensure the integrity of ownership, yet allow for access and control of mineral development. It must be seen to preserve the rights of the surface owner, yet be flexible enough to allow entry. The balance is difficult, as the interests of the two owners often appear to be conflicting. I have confidence that if both the surface owners and the mineral owners approach the implementation of this Act in fairness, integrity, and sincerity, surface rights will no longer be a problem in Alberta. I support the Act.

MR. M. MOORE: Mr. Speaker, first of all, I want to congratulate the Minister of Agriculture for his comments today on the introduction of a new Surface Rights Act, and other members who have been involved as well. We've always recognized the important role of the provincial government in reconciling the concerns of landowners and energy resource developers. In 1971 this government made a commitment and took action to help settle surface rights questions. The Surface Rights Act, the forerunner of this Act, and the Land Surface Conservation and Reclamation Act were passed in 1972 and 1973.

> Mr. Entrup, the only Farmers' Advocate in North America, began working as a mediator on a wide range of issues, including surface rights.
>
> In 1981, in response to new concerns, fresh initiatives were recommended by a committee of the Legislative Assembly after a major study of surface rights. The major principles contained in their report will be implemented.

Those comments are taken from the centrefold of this little brochure called Agriculture — Our First Industry. The paint is still rubbing off on my hands. It was distributed to several thousand farmers throughout Alberta during October 1982, and without question it represents a better position with respect to surface rights than that which was put forward by any other political party in Alberta, including the one represented by my hon. friend from Spirit River-Fairview.

My first involvement with surface rights was a long time ago, in 1948, but it was different from that of some members who spoke today. It was when Century Geophysical first moved into the community in which I live and began to do seismic work in a farming area. I recall that there was a recognition of the conflict, if you like, that existed at that time and that has existed from time to time since then. My recollection was that it was resolved quite easily. In fact a number of the people on the seismic crew at the time fitted in quite well with the local baseball team, and we had quite a happy summer. I didn't even know, at that time, that surface rights legislation existed, albeit in a different form from what exists today.

Over the period of time since then, there have been numerous changes. The hon. Member for Three Hills spoke about 1966 and the years that led to changes which we implemented in this Legislature in 1972. My first real involvement, of course, came prior to 1971 and leading up to the positions we took leading to the first Surface Rights Act, as that name implies, in this province in 1972. The comment has to be made time and time again that when it comes to surface rights, we're dealing with something that changes with time and will continue to change. Farming operations change, land values change, the nature of the energy, electrical, and pipeline industries changes from time to time, and we need those changes. What we have before us today is a reflection of what's right and proper and appropriate in 1983, given all the circumstances outlined by other members and the comments in the report of the Select Committee to Review Surface Rights.

I'm pleased with this Bill before the House, and with the efforts that have led up to it. In saying that, I want to congratulate the hon. Member for Barrhead, who chaired the select committee that developed the report of November 1981, and all the members who were on that committee.

I want to make brief reference to one aspect of the Bill before us today. It has to do with those board orders and agreements which were dated prior to January 1, 1972. There has been some comment from many sources that such legislation is retroactive and not in keeping with the spirit and the intent that contracts and agreements should not be broken by provincial law. Let me say first of all that this Bill does not provide in any way that a landowner would collect an amount going back some years from 1983 for that portion of lost income or inconvenience he had suffered on an annual basis because he signed a surface lease agreement in 1956 that was outdated in terms of its monetary value not too long after that. It doesn't provide that at all. It provides an updating of that agreement from this point forward. And it's important to remember that in this legislation no one is asking that there be a retroactive payment for a cash loss. That's number one.

The second important thing to remember is that the individuals we are talking about here did not freely enter into a contract with the energy industry for the use of the surface of their land. They entered into a contract under provincial law in force at that time, which had been passed by this Legislature. It can easily be said anywhere in Alberta, in front of a meeting of landmen, energy resource explorers, or farmers, that under those conditions no one should believe that we had agreements that were entered into freely by those who farm land in this province.

I want to move from there to talk briefly about the kind of thing landowners and energy people have to deal with. It's reasonable that we have legislation that provides that those who have the right to explore for energy resources in this province also have some form of being

able to get onto the surface of land to do that. To do otherwise might inhibit the exploitation of our natural resources and thus inhibit the job opportunities and wealth which came about in this province because of that opportunity. But surely we have to remember that both parties to this important part of economic activity in this province must be satisfied with the result: on the one hand, the agricultural industry, those involved in keeping and protecting our agricultural land, and those who are seeking the energy resources.

Let me give you an example or two of what I mean. In the community I live in and the constituency I represent, I don't think very many good, active farmers, if they had their choice, would not say, I would rather not have a well site or a pipeline or some other activity across my land at the prices that are being paid for that inconvenience, either under the existing legislation or the proposed legislation. In our own farming operations, we're involved in the production of foundation registered and certified seeds. A great number of people in the energy industry simply don't know what that means.

A year ago last winter, a landman phoned me who wanted to run two seismic lines on an angle across a section of land cultivated with some 400 acres of boreal fescue on two different fields. He was offering me $600 a mile, or something in that order. I said: I don't have any problem with the price, but I'm concerned about the spread of certain kinds of weeds on that land; I wonder if we could come to some kind of arrangement to make sure that your equipment is well cleaned before you go on those particular fields. He indicated to me that there was perhaps a way they could pay a little bit more, but it would be very difficult to attach any conditions. I kept insisting that one condition had to be that he didn't drop any weed seeds. He finally said to me, why don't you just tell me how much you want? I said, perhaps I can add it up very briefly this way: I have 400 acres of land, and if we get 400 pounds to the acre, it's 50 cents a pound if I have pedigree seed that passes field inspection; but if one quack grass plant is found in the field, or one quack grass seed in the seed once it's cleaned, then I get 35 cents a pound. I said, that's $60 an acre on 400 acres; that's $24,000. He hung up the phone, and I've never heard from him since.

All that does is indicate to you the serious problem that exists with respect to knowledge among some landmen. I didn't want $24,000. I wanted him to know that my operations could be reduced in yield that much on an annual basis if the use of that land didn't take into consideration the kinds of concerns I had. We can go on and on with stories about my neighbor down the road who has a purebred cattle breeding program. I don't have to tell rural members about some of the difficulties that might be encountered there.

Mr. Speaker, I want to conclude by saying that yes, there has to be fairness and equity; it has to be balanced on both sides. Perhaps even more importantly, there has to be an understanding by me as a landowner and farmer that there is a very real necessity to explore for energy resources in our province to provide for our future and, on the other hand, a recognition by the oil and gas industry, landmen, and others involved in utilizing the surface of land that we in agriculture have problems and concerns and that there has to be some knowledge on their side about the kinds of problems and concerns we have and a recognition of them.

In closing, Mr. Speaker, I believe that this Bill put forward by our government, with the mandate from rural Alberta provided to us on November 2, is the forerunner, if you like, for surface rights negotiations and legislation in Canada, and will continue to serve both the agricultural and the energy industries working together in this province in the way they're entitled to be served.

MR. KOWALSKI: Mr. Speaker, it's my pleasure this afternoon to participate in the debate on Bill 60, the Surface Rights Act. I say that with a great deal of pride and integrity today, spending nearly 1,100 days of my life, going back to the spring of 1980, at one time or another involved in activities with respect to surface rights. Certainly I do not have the kind of experience alluded to by a number of my colleagues this afternoon, but it is with a particular type of pride that I say I have had the opportunity to be involved in one aspect leading up to Bill 60. It's a bit of pride that I think all members here should share today.

There are a number of former colleagues who are no longer here, who contributed to Bill 60. It would be particularly pleasing should we be able to acknowledge their efforts. I want to pay tribute to three former members of this Assembly who worked very hard on the select committee on surface rights: Mr. Elmer Borstad, the former Member for Grande Prairie; Mr. Bob Clark, the former Member for Olds-Didsbury; and Mr. Norm Magee, the former Member for Red Deer. When they receive a copy of Bill 60, I'm sure they will say the work and effort were well worth it and well maintained. Their efforts on the select committee on surface rights were very pronounced. The Member for Three Hills talked a little earlier this afternoon about crisscrossing the province so many times that you got dazzled in the middle of the night and compasses didn't really help you find your way. But they certainly endured with us and participated.

A number of members talked about part of the history with respect to the development of Bill 60, and there is a bit of history that goes back. I'm very, very happy that the Member for Smoky River alluded to a blue pamphlet, printed not too many months ago, which committed our government to a program with respect to agriculture and also committed the Progressive Conservative Party, should they be re-elected, to implement the major principles contained in the select committee's report.

Unlike the Member for Spirit River-Fairview, I'm very proud to be a Conservative and a member of this Assembly, because I think Bill 60 is the most progressive piece of surface rights legislation to be found anywhere in terms of equity and fairness for all the players in the game: the gas industry, the power industry, the agricultural industry, and all the landowners in this province. Mr. Speaker, "anywhere" does not mean western Canada or simply Canada; it's anywhere in the world.

The Member for Spirit River-Fairview talked about his disappointment. I don't want to be too harsh, because in a number of his comments about Bill 60 he was basically very kind. But he talked about his concern about the lack of a number of principles being implemented. Mr. Speaker, on April 26, 1982, I had an opportunity to review the select committee report. I don't want to bore members with a review of that today, but I would like to point out that when the report was tabled, I had the opportunity, on behalf of all members of the select committee, to outline the principles of that report. When we look at Bill 60 today, all the principles contained in the report as outlined by the members of the select committee have in fact either been implemented to date or are being implemented in Bill 60. I would like to very, very briefly

reiterate for all members what those major principles were.

The first principle the committee basically pointed out and said had to be addressed was one calling for a more aggressive and vigilant approach by the Land Conservation and Reclamation Council in ensuring the conservation of topsoil and the preservation of prime agricultural land in Alberta. Bill 60 does not deal with that matter, and really doesn't have to deal with that matter, because there is another Bill before the Legislature this spring which covers that point: Bill 62, the Land Surface Conservation and Reclamation Amendment Act, 1983. Mr. Speaker, I would just like to repeat that that was principle number one.

The second principle dealt with the realignment of responsibilities between the Surface Rights Board and the Energy Resources Conservation Board. Bill 60 accommodates that principle. The third principle said that there should be a new financial benefit, to be known as the force-take benefit, up to a maximum of $5,000 for a lease. Bill 60 accommodates that request and basically talks about a number of acres and a maximum of $5,000. A fourth principle said: renegotiation of all oil and gas surface leases prior to 1972. Bill 60 accommodates that principle. Annual payments for damages to land caused by pipelines — Bill 60 accommodates that principle. Annual compensation for all major transmission lines, surface structures erected by utility companies — Bill 60 accommodates that principle.

A review of legislation dealing with coal surface mining projects has already been dealt with by the Minister of the Environment. Local representation on the Surface Rights Board was another principle, and is dealt with under section 3(2) and (3) of Bill 60. The Member for Spirit River-Fairview said that the select committee report outlined who those local people should be, but a reading of section 3(2) and (3) of Bill 60 clearly indicates there's an opening for the minister to in fact advance the appointments of such people as he sees fit.

Finally, Mr. Speaker, the last principle the select committee put forward was one calling for a code of ethics and written standards of conduct for Alberta land agents. That matter has already been dealt with. In fact it was dealt with in 1981 in the Land Agents Licensing Amendment Act that has already been approved. I think we have had all the initiatives to fulfil the major principles that have been outlined by the select [committee] in calling for changes in the whole question of surface rights in the province of Alberta.

Mr. Speaker, there are some ´70 recommendations in the select committee report. And when you add up the commitment this government has already made by way of the Land Agents Licensing Amendment Act, 1981, the Oil and Gas Conservation Amendment Act, 1982, those ideas put forward in Bill 60, the Surface Rights Act, those changes that will come forward by way of Bill 62, the Land Surface Conservation and Reclamation Amendment Act, 1983, and a document that was published a year ago by the Energy and Natural Resources people called Surface Rights Facts & Information Sources, which clearly outlines all the rights and privileges of the landowner in the province of Alberta, in my view commitments have been made to all the principles outlined in the select committee report.

My concluding remark is: congratulations to the current Minister of Agriculture for having the wisdom of Solomon. In recent months, since the massive mandate of November 2, 1982, the number of members on the same side as the current Minister of Agriculture had an opportunity to get together on more occasions than I want to remember to discuss what should go into Bill 60, and we succeeded and he succeeded. I'm really pleased that we succeeded in continuing with another major commitment that our government made last fall when we sought the response of the people of Alberta. Of course they said yes to us, and we could do no less than respond to them.

Thank you.

MRS. EMBURY: Mr. Speaker, in view of the time, I beg leave to adjourn debate.

MR. SPEAKER: Does the Assembly agree?

HON. MEMBERS: Agreed.

MR. SPEAKER: It is so ordered.

MR. CRAWFORD: Mr. Speaker, I move that we call it 5:30.

MR. SPEAKER: Does the Assembly agree?

HON. MEMBERS: Agreed.

[The House recessed at 5:27 p.m. and resumed at 8 p.m.]

MRS. EMBURY: Mr. Speaker, I am pleased to have the opportunity to speak on second reading of Bill 60. This afternoon we heard an excellent overview by the Minister of Agriculture of the principle issues addressed in the legislation. Several members presented an historical perspective of this issue, and some spoke more of the individual emotional concerns of what it means to be involved in land negotiations. There was an expression of feeling for the land. I don't pretend to have that experience, when one stands and looks in each direction as far as the eye can see and says that it is mine, I own it. But it isn't fair to say that one doesn't have an appreciation for a small plot of land, however small it may be.

There was a direct reference this afternoon to city parks owned by the public. I would like to speak with regard to that issue and say that there are many urban members who have utility boxes on their property — small, yes, but still a factor in what you do with your property and the aesthetic value of it.

How many members have been involved in or know constituents that have been involved in expropriation? Again, an emotional issue of land ownership, although not entirely related to this issue of surface rights. When one speaks of land ownership, it is emotional and also economic. But I hope that in this debate, knowledge and logic will also prevail.

This ongoing public process was highlighted by the special committee of the Legislature that undertook a mammoth mandate of public hearings right across this province. I believe that every member of the Legislature would commend this committee for its very diligent work. Once the report was written, there was opportunity again for public input. This was followed by a debate in the Legislature. Throughout all of these stages there were discussions, and I recall a great deal of hard work, through committees and individuals out in our constitu-

encies studying the issues, writing us their concerns, telephoning us, and keeping in touch. The legislation as presented fulfils a commitment at the time of the election last fall.

As I mentioned, resolution of the issue so vital to our major industries only resulted through many meetings, different points of view being aired, and an ongoing process of discussion. While I cannot speak this evening on behalf of all my colleagues from Calgary, I would like to say that it is difficult to speak only of one's constituents' point of view. We have many friends spread throughout each other's constituencies. I know if other members do not take the opportunity this evening or on another occasion to speak about their concerns with regard to this Bill, I would like to say that I feel I am speaking on behalf of many members from Calgary.

To me, the process with regard to this legislation was a learning process. One member this afternoon referred to it as a battle, and I really don't feel that was the case. My knowledge and background on the principles of this Bill or on all the issues that are pertinent to my constituents and many Albertans are not extensive at all. However, I have tried to understand the feelings and concerns raised by rural people. I've listened and talked to my rural colleagues to gain an appreciation of what has happened and what needs resolution. I have also listened to my constituents. It's important to appreciate what parts of industry are affected: who in the oil and gas industry; what about the pipeline companies; what about the utility companies? How many people are we actually speaking about? As Albertans, and as a member in this Legislature that represents all Albertans, are we not all concerned about rural electrification, the use of gas across Alberta? And do we not all want the benefits for ourselves and our constituents that we obtain from exploring for, producing, and selling our oil and gas products?

Mr. Speaker, it is my love of the land, its resources, and the love of all Alberta that compels me to address this issue.

MR. PAYNE: Mr. Speaker, I would like to participate briefly in second reading debate on Bill 60 this evening and open my remarks with the supportive comment that I'm more than prepared to support this very important piece of legislation. However, Mr. Speaker, it will come as no surprise to you and others who know me and are familiar with my riding when I indicate that my enthusiasm for the Bill is somewhat less than has been registered by others in our second reading debate, particularly this afternoon, because so many residents of my constituency are directly associated in one way or another with the oil industry.

It's not surprising that a very considerable number of them have written me, met with me in my home, and journeyed to Edmonton to meet with me in my offices here to register their well considered objections to several provisions of the Bill, notably the additional financial obligation described in the Bill as an entry fee. They have understandably pointed out that the economic climate at the time of the select committee's hearings was far different from the economic climate we see here today. At that time, of course, the effects of the national energy program hadn't really been realized, and land prices were still escalating. They further suggested to me that they are concerned the entry fee will increase their costs and perhaps undermine their cash flows at a time when their cash flows were just beginning to recover. Consequently, they say, there is a risk that their ability to fund their operations later this year and in subsequent times may be somewhat reduced.

Despite the financial focus of those criticisms, Mr. Speaker, and the attendant arguments of right and wrong, I would like to draw the attention of members to a comment made by the Minister of Agriculture in a newspaper column that he prepares for a good number of weekly newspapers in our province. I'm circulated copies of those columns and I read them with considerable interest, because I must confess I'm not very knowledgeable about the farm sector. As a member of the Legislature and of Executive Council, I feel an increasing obligation to add to my knowledge and understanding of that very important part of our province, so I read these columns every week. I'd like to draw members' attention to the column written by the minister dated May 30, in which he quite interestingly observes:

> There have really been no questions of right or wrong;

He makes that comment in the context of a column dealing with Bill 60.

> . . . instead we have had to deal with principles, judgments of what was the fairest thing we could do for all concerned.

Mr. Speaker, I think that statement characterizes the way the Minister of Agriculture has developed this Bill throughout the various forums in which he and I have been associated.

However, I would like to suggest that in any discussion of the entry fee, if that discussion has entirely a financial or economic focus as opposed to a focus of principle, it's not illogical to point out that the recommendation of the select committee was for a $1,000 per acre fee. That has been reduced in this Bill by 50 per cent to a figure of $500 per acre, with a minimum payment of $250 and a maximum of $5,000 on each title parcel. I'd like to suggest in partial response to a question raised earlier today by the Leader of the Opposition that that represents, at least in part, a compromise and indeed a recognition of some of the current difficulties experienced by the oil industry, difficulties which have been communicated to the minister and to most of the members of the Legislature.

I'm further encouraged by the proposed reduction in the overall time frame for Surface Rights Board procedures, which have heretofore been a cause for some concern in the industry. I would like to suggest that this time frame reduction anticipated by Bill 60 is yet another illustration of the government's capacity to respond to input from the energy industry.

I suppose I'm already over quota for my quotations from the Minister of Agriculture, but I would like to make a second. On May 20, when the Minister of Agriculture announced Bill 60 by way of a statement, he said that the Bill would

> ensure a continuing balance and a compromise between the two industries that are the basis of our province's economic development and prosperity.

I echo the sentiments of the minister and of other hon. members participating in second reading debate of Bill 60 earlier today, that this balance will indeed be an enduring characteristic of the relationship between the energy and agriculture sectors.

I don't think I can put it any better than a landman who wrote me just a few days ago. His concluding remark in that letter was:

> These two industries are dependent on each other and working together will greatly assist in our eco-

nomic recovery.

Certainly it's my hope and expectation that these two much-valued sectors of our province will indeed continue to work together.

MR. ALEXANDER: Mr. Speaker, having listened, as I did this afternoon, to the chorus of support from the rural constituencies for the Minister of Agriculture, I want to say that I am second to none as a fan of the minister and the way in which he's conducted this Bill so far.

I lack the vast experience of the same type of other hon. members who were on the task force charged with the duty of bringing this Bill into legislative form. My experience on the Surface Rights Board dates back to January 1983. Since then, I've spent the equivalent of 15 years in committee meetings trying to get this legislation drawn. On the committee, because of my vast experience with entry fees, more than all the other members put together as a matter of fact — others might have called them green fees. Incidentally, they were forced as well: you either pay up or you don't get on the surface.

No good, eh?

SOME HON. MEMBERS: Go for it.

MR. ALEXANDER: One thing I've learned, Mr. Speaker, was that in government as I've seen it so far and in committees such as this, one learns a bit about the democratic process. One learns, among other things, that it isn't always perfect. It isn't always perfect because you don't always win. In this particular case, as the speaker before me has indicated, the urban cowboys were outgunned by the sodbusters. The minister from Three Hills referred to it as a battle royal. I think that's a fair judgment.

I think the agricultural community and the surface rights groups should be very pleased with Bill 60. I don't think it's out of place to suggest, as the minister just did, that the energy constituency may be somewhat less so. As I've said, because nothing is perfect we should recognize that not everyone is going to be ecstatic. Legislation is like that. Since I've been here, I have detected some faint notes of unhappiness with hospital user fees and some disenchantment, mild as it is, with Bill 44.

We do act democratically in the public interest, and I don't believe we should be shocked if there's some dismay at the matter of entry fees. Some of us on the committee would have preferred to have made it into a down payment. Due to the democratic process we lost, for the reasons you've heard this afternoon. We were against some very eloquent opponents who brought to the table a very long history and much eloquent reasoning. That's the process. But I think we might expect to hear something about that. Perhaps that's part of the job.

A very minor point: I think I have now mentioned section 25(9) three or four times in committee. I have been unable to understand why we are using a Bank of Canada rate, which in fact is an interbank rate, instead of a commercial rate for the establishment of interest. But I lost on that one too. That's the democratic process, and I'm not unhappy with that.

For some of us, sections 28 and 30 contained a very faint odor, not of sour gas but of retroactivity. That was very well explained this afternoon by the Minister of Transportation. While some of the pre-1972 surface leases have been renegotiated — numbers as high as 95 per cent of them have been renegotiated voluntarily — a few weren't, unfortunately. So something had to be done. The Bill will do that. That's the trigger date of 1985, which some members have already drawn attention to. Some of us held out the hope that there still is good faith left in these two communities which, I think, can show the capacity to work together. If they do not, then of course 1985 is on the way.

The minister for public information has already pointed out, so I won't add to the point, that the shortened time frame for some energy industry requirements in getting permits, getting on the land, and doing their work should certainly help to offset some of the disadvantages they may suffer from other elements of the Bill.

As the Member for Barrhead and the Minister of Agriculture, who have brought this Bill to this point through a very long, vigorous, and tough process — I'd like to join in their happiness this day. I think it's a proud achievement for both of them. I only hope, Mr. Speaker, that the entire community will share that view, as has been expressed already many times today, and that a year from now we can all look back and say that the pride in Bill 60 was fully justified.

Thank you for the opportunity.

MR. R. SPEAKER: Mr. Speaker, I want to make comments with regard to the Bill. First, I appreciate very much that the minister has brought the amendments forward and followed the report to quite a significant degree. I think that's significant in itself.

The way I have observed this process of compensation to the farmer over the years — and I've had quite a number of years of experience in negotiating and assisting between farmers and the various oil companies and landmen. Some 15 years ago, as I look back, there were a lot of hard feelings between farmers and landmen. At that time, there were a lot of landmen who didn't have the same set of values or ethics in dealing with various farmers. I recall our bringing legislation into this Assembly to deal with that matter; a cooling down period of time that allowed the farmer to look at what he was going to sign and what was going to happen. I recall that that solved quite a bit of the problem. I say this with all due respect, but I think that was because some fellows from the city came out to the country and felt they could slip one past the farmers, and they took advantage of it. Because of that fact, legislation came into the Assembly.

As I follow the process through, I would say that until about 1980 there was continuous improvement in terms of the relationship between the farming community, the farmer, and the oil companies and the landmen. I would have to say that in that period of time — between, say, 1975 and 1980, which were the great years, the good years; large sources of revenue, expenditures out in the field; everybody in the oil business was having a good time — certainly there was room for negotiation. Compensation to the farmer seemed to be adequate. I would have to say that out of the many cases I dealt with, the percentage where we could not reach agreement or talk through the agreement was small. I'm certain many of those people made representation to the select committee that travelled the province at that time. But on the whole, conditions have been quite good.

Now we move from 1980 to the present day. Certainly we all know that in 1981 and after that, '82-83 specifically, conditions have changed significantly. I've also found that even those who at one time were very concerned about the compensation they were going to get and the arrangements they were going to make with the oil

company, had a change of attitude, particularly in the late part of 1982 and the one or two I've dealt with in 1983. When a farmer phoned me, the feeling was: look, there's a well site going on my land; I am going to negotiate it and I think we can handle it, but I'd like some advice from you; don't give me advice that will put me into an adversary condition that I may lose the site or the potential revenue for the next four or five years; don't give me that kind of advice, because I don't want to lose the well. At that point in time, they were saying that — a change in attitude.

When the government designed this legislation, specifically the section with regard to the entry fee, I hope that was taken into consideration, because there is a change of attitude as to whether the farmer in this province wants a site on his land or not. The number of farmers that want sites has increased significantly. It is a great opportunity for a guaranteed cash flow on the farm for a period of time, and I certainly hope the government considered that when they brought in this section. I know the reasons for it. Certainly during the election the government committed itself to the force-take section of the report, this entry fee concept. We're stuck with that and have had to bring some kind of legislation to meet the commitment. I guess it's a responsible political party to do that kind of thing. But under a change of conditions, maybe that policy should have been reassessed. It is going to be expensive for the various companies; that's the first thing. They can defend their own position with regard to that, but I make the comment.

The thing that concerns me, though, is that over the years I have seen a good relationship build between the oil companies and the farmers. I'd have to say that on my own land, I have a number of wells, entries, and entrances. I've had no problems. My neighbors have had no problems. For any kind of oil spill off site, they came to see if they could compensate. So I would have to say that on the whole, conditions have been fairly good.

What bothers me with regard to this entry fee is that when we look at the basic principles of a person who owns his property — that's me as a farmer, and others in this Legislature and across this province who basically own the land. The oil company that wishes to use the land for the purpose of producing either gas or oil has the opportunity to come to the landowner and, between the two people, you have the opportunity — and it has prevailed in former legislation — of free negotiation between the two parties. At the conclusion of that negotiation you reach a price and an agreement, and that agreement holds under the legislation of the province. But it's a negotiated deal, an acceptable one on those bases. Each item of compensation in the arrangement is based on certain criteria, some of them spelled out in one of the sections of this Act. I think we're all aware of the four main criteria that are usually used, but the compensation is paid based on some specific kinds of criteria. When you look at the force-take, I'm a little concerned that that moves away from that negotiation process.

Maybe when there was lots of money around, people were saying, look, we need more money; let's find a way of deriving it from the oil companies. What should have been done was that when the farmer and the oil company couldn't reach an agreement, possibly the board should have assigned greater settlements. I think that would have led the way and possibly said to the oil companies, up your settlements a little more and negotiate a better deal with the farmers. But that wasn't always the case. The board often reduced the settlement, and that strengthened the case of the oil companies.

On principle, the entry fee just doesn't quite fit in terms of free and open negotiation in the market place. I'd be a little concerned about the kind of legislation, where we've set an artificial fee paid to the farmer or the landowner. The question is: for what? What is a force-take? What is an entry fee? Why not be able to negotiate that without the government fixing it here in legislation?

I know it's a little brave, maybe unusual, to stand in my place in the Legislature and say something like this. But if we believe that legislation should be based on principle, that free and open negotiation takes place in the free economy of Alberta, and a person has a right to property and as well the money of the oil company is theirs, if they have a right to negotiate how much they will expend to the respective landowner, then we should protect that principle. In this legislation, Mr. Speaker, I feel we have violated that.

I'm sure there'll be farmers in my constituency who disagree with that. But we have moved from principle, as I examine this respective position. Certainly when the committee recommended it, economic conditions were different. Potentially the number of problems at that time could have been different. But I don't think today, during 1983, when there's going to be a downturn even greater than it is right now in the number of wells drilled — in January of this year, for example, Dome oil had 12 holes prepared to drill in my area. All of a sudden, the finances were pulled out from underneath them, and they're not drilling them now. Those are 12 problems I don't have to deal with in my constituency. But I'm sure there are many more like that across the province. The problems may not be there just the same way.

I am not asking the government at this point to reassess it. I am sure they've gone through many discussions and have been concerned with the very same point. But I raise it because we are moving off what I think is a basic principle with regard to negotiations, Mr. Speaker.

MR. STILES: Mr. Speaker, I wasn't sure whether I wanted to rise to speak on this Bill until just a few moments ago, but now I am firmly convinced that something needs to be said with respect to rights, property ownership, and some of the basic principles upon which Bill No. 60 is based. Coming from Olds-Didsbury, I would probably be remiss if I didn't speak, considering the time and effort that was expended by the last but one member to represent that constituency. I would be remiss also in terms of the people of my constituency being, as they are, relatively equally divided, in terms of their interest, between agriculture and the oil and gas industry.

Olds-Didsbury is perhaps particularly significant also because it is one of those constituencies in which the development of oil and gas resources has interposed on the agricultural community a conflict with respect to the production of land, which is probably some of the most productive in the entire province. Accordingly, any time some of that land is taken out of production, it represents a genuine loss not just to the individual farmer involved but to the province, in terms of production that is no longer there. That may not be the case in Little Bow, and it may be possible that farmers there welcome the cash flow that they might receive from a well site or a pipeline, but I can you tell that isn't the case in Olds-Didsbury.

I think I would have to agree with the Minister of Transportation, who said earlier today that he isn't aware of any farmer that if given the choice of whether or not he would have a well or other kinds of development on

his land, he would turn it down. That certainly is the case with the farmer in Olds-Didsbury. I don't think there are very many whose interests would be served by having the development. They would much prefer to see the land clear of those kinds of developments and be able to continue to produce from it. What we are dealing with here of course is a conflict between the two basic industries in our province, agriculture and the oil and gas industry.

Incidentally, contrary to some remarks that were made earlier today, I believe by the hon. Minister for Economic Development, about the number of employees involved in agriculture compared to manufacturing, I believe there is a misconception in Alberta. Many of the people who are involved in manufacturing or industrial activities are involved in agricultural industrial activities and, accordingly, should be included in the agricultural sector. In fact, the number 50 per cent has been reported to me by people in the agriculture educational area. They tell me that 50 per cent of the people in Alberta are in some way or another involved in agriculture, perhaps not in production but in all the service "industries that support agriculture. So it is a basic industry in the province, and it does involve a tremendous number of our working population.

Naturally, the oil and gas industry is equally important in terms of the jobs that industry is responsible for and, perhaps more important to us today, in terms of the revenue that we receive as a province, as a population, from the development of this resource. Perhaps, though, the farmer views the oil and gas industry as one which is extracting a non-renewable resource. They see them in the light that there isn't really the commitment to conservation that there is in the agricultural community and, because they are in an extractive industry, they don't really have a concern for the effect their industry has on the people on the land around them.

On the other hand, the agricultural producer is looking at a history of production from his land going back over generations, particularly in a constituency like Olds-Didsbury where we have third and fourth generation farmers farming the land. They have a concern for conservation, and they have a concern for the land continuing to produce year after year, generation after generation. I think it is that care for the land that over years and generations has created the emotional climate in which this issue has now developed.

The whole idea of the entry fee is really to compensate the landowner, the producer, for the loss of his right of ownership over the land. That has an historical route in the sense that this business of exploiting the land or resources is a very recent one. It's only more or less since the turn of the century that we've been extracting oil or gas from below the surface of the ground. Previous to that, we were more involved in the production of coal and other solid minerals from the ground involving mining. The sort of widespread development we see in Alberta today in terms of oil and gas development just wasn't known.

The concept of fee-simple, which perhaps many people are unaware of and which today is reflected on our land title certificates, in the sense that we are still today supposed to have the fee-simple ownership of property, was one in which one owned the property from the centre of the earth to a point in the heavens as far as you could possibly conceive. That was the idea of fee-simple. It gave you all of the rights with respect to that parcel of ground that there were. You could decide exactly what happened or did not happen on your land.

That view is very widely held in the agricultural community, and it's a view that is held with a certain degree of passion. It is only since the development of oil and gas, really since 1947, when oil hit the province of Alberta in such a big way with the discovery in Leduc, that we've had to change our thinking about fee-simple and what ownership of property really means. Many landowners in the province have become very frustrated with this idea that their ownership of the land no longer means what it once did, no longer means what it meant to their fathers or their grandfathers. This idea that someone else has some kind of claim to what's below the surface of their ground is one they find very difficult to live with.

The idea of the mineral exploiter having the right to come onto the land goes back to the 1947 period. The early Act, the Right of Entry Arbitration Act, more or less tipped the balance in favor of the oil and gas industry, and it is that tipping of the balance, I think, that has frustrated farmers more than anything else. The idea that they don't have any choice, that they are not negotiating on a free and equal basis — there's no free and open negotiation when there is a piece of legislation that says, if you don't agree to what's being offered or if you can't agree with a developer, then there is a board that will decide for you. The minute you introduce legislation that does that, you take the whole idea of free and open negotiation and throw it out the window.

That's what has happened in Alberta, and that's why there has been frustration in the agricultural community. That's why farmers were not happy. Perhaps that's why in 1972 the Surface Rights Act was introduced: to try to address those concerns and that frustration. As the hon. Member for Little Bow has pointed out, we have been moving in the direction of resolving the problems and the frustrations; there's no question about that. But that frustration and those problems were still there when the select committee toured this province back and forth. There's no question that the representations made to them addressed those problems and that frustration. The select committee recognized the dilemma of the farmer, in that he was not on equal footing with the oil and gas industry in negotiating the use of his land, and they dealt with it by making the recommendations they made.

What we have in the Act today is a compromise. Certainly, in terms of the entry fee, the amount recommended by the select committee has been cut in half. That's a substantial compromise, but the principle is there. That was the principle that we agreed we would adapt into legislation during the election campaign, and that is the principle contained in Bill 60. That entry fee is not to compensate for the use of the land; it's not to compensate for the difficulty the farmer will experience in farming around that surface installation, no matter what it is. That entry fee is there to compensate the farmer for someone having the opportunity or the power to enter on their land and their not having any say in the matter.

That's what that entry fee is there for, and that's why it's fair, right, and just that we should have that entry fee included in this legislation. It recognizes the loss the farmer experiences in the idea of what ownership of property really means. Because we have that in this legislation, and even though we have cut in half what was recommended, I think the farming community — and I'm including the farmers of Olds-Didsbury — will accept this Bill as being a fair and equitable compromise between the interests of these two basic industries and a fair and reasonable compensation for what it is the farmer has

been required in the public interest to give up. That is why I support the Bill wholeheartedly.

MR. ALGER: Mr. Speaker, I'd like to rise to almost conclude this debate in about a 60-second ad lib speech that I rarely make, if ever.

In all fairness to the House, I think it should be said that Bill 60 has done a lot indeed for the farmer and the oil man. The oil man might as well know that when he buys this land and buys the minerals, he pays a good price for them. He might as well know that the surface is going to cost him some money, too. The farmer as well, inasmuch as it's his land and all that sort of thing — it's very, very nice — might as well know and all of Alberta might as well know that every legal subdivision in this province will at some time or other be drilled. We are not in the oil business for the fun of it. We certainly can't get along without it, and we're not going to quit till we find it all.

Thirdly, the people I feel bad about are the people who have to have hydro-electric running across their land. The farmer doesn't get too good a shake even from the pipeliners. But I feel that this Bill will do a lot for them. If we continue to work with it and improve on it, I think the co-operation between agriculturists, oil men, power men, and pipeline men will improve through the years.

With that, I'll take my seat.

MR. SPEAKER: May the hon. minister conclude the debate?

HON. MEMBERS: Agreed.

MR. FJORDBOTTEN: Mr. Speaker, I'd like to say that I certainly appreciate all the remarks, comments, and suggestions the members have made tonight. I would like to say, though, to the hon. Member for Edmonton Whitemud that the Member for Little Bow and I don't have any sod left; we've farmed long enough that we're nearly bust; we are living in an urban setting at the moment; and we certainly aren't cowboys. So I don't know where that puts us in the gist of trying to come up with your remarks tonight.

There were a number of issues raised. One of them was why we weren't moving ahead with the library of surface rights agreements. We looked at it very seriously, because that was part of the select committee report and one that particularly rural people have been asking for — somewhere to go to a file where they could see what the agreements were. As I said in my earlier remarks, it's been set aside for further study. While it's my intent to create one for right of entry orders, as I suggested, I just didn't feel comfortable with a file for all surface rights agreements. It's difficult to put that together, and the staffing, hardware, and systems development that it would take — I asked for a price on what that would all cost to set that up. The number I was given was roughly $650,000. When we're in a time of restraint, I thought that should be set aside for further study. Whether that number is true or whether it could be done for less is open for debate. However, that's one area where we decided not to move.

On the review of compensation on pre-1972, the reason we picked the date of June 1, 1985 — there's no magic to the date. We could have picked a date when the Act or that section of the Act is proclaimed, or we could have made it immediate. However, if we had done it immediately, there would have been a number of cases come to the board that would have created a workload such that we probably would have had to hire more staff or do something. By making it June 1, 1985, we precluded that. Also, it will give the operators and landowners the opportunity of that negotiation over the next two years on the very few cases that are left before the Act comes into force.

One other question that was asked was on the termination of the right of entry, why $5,000 and not more, because the select committee had recommended more. There's no magic to that number, either. It was one that we felt was reasonable and in the realm of an administrative tribunal. It fit in there quite well. Also, it's two and a half times what the small claims court is. So that was just a number we arrived at that was reasonable considering the circumstances.

The assignment of compensation and putting it aside: it got involved in a number of areas that I thought were complex with respect to abrogation of contracts, property rights, and a number of other areas, and how you actually implement it. It's put aside; I'm not saying it'll never come back again. It was a difficult one, and we weren't quite sure how we would do it. Also, having a pilot project rather than expanding the membership of the board to allow for local expertise is something that I really intend to do, because I wasn't satisfied — I didn't want to create more bureaucracy or problems. I wanted to try to simplify, if possible, and run a pilot project. If it works well, then it can be implemented.

Mr. Speaker, most of the other questions were answered by members. If we look at the entry fee, it was a compromise. A commitment was made that we would implement the major principles of the select committee report, and that certainly was one of the principles. The hon. Member for Little Bow is correct. Times have changed from when the select committee report was tabled until now, and the compromise on the numbers and on just having it pertain to deeded land is one that we felt was reasonable under the conditions we're working under today.

[Motion carried; Bill 60 read a second time]

[On motion, the Assembly resolved itself into Committee of the Whole]

head: GOVERNMENT BILLS AND ORDERS
(Committee of the Whole)

[Mr. Appleby in the Chair]

MR. CHAIRMAN: Will the committee please come to order.

Bill 44
Labour Statutes Amendment Act, 1983

MR. CHAIRMAN: There are a group of amendments to this Act. Are there any questions or comments regarding the amendments?

MR. MARTIN: Mr. Chairman, I would like to rise in Committee of the Whole and bring in a motion, that states:

> Be it resolved that this committee requests the Assembly to issue an instruction to the committee to summon expert witnesses and receive evidence as to

> the likely effects of the measures proposed in Bill 44, Labour Statutes Amendment Act, 1983.

MR. COOK: We've done that Ray. It's too late.

MR. MARTIN: Mr. Chairman, the reason we're bringing this motion in committee, this instruction that has to fall in committee, is to deal with what we again perceive as a mistake of hurrying and we're trying to come at it in another way, that perhaps may be appropriate to the Minister of Labour. As I recall, the Minister of Labour quoted a number of people last Friday. On page 1199 of May 27 *Hansard,* he talked about Professor Kenneth Swan, and finally ended up with Kenneth Swan saying:

> . . . which will, in general, lead to results commanding the mutual approval of both the parties to the dispute.

The other person quoted on page 1199 we'll give the benefit of the doubt to, the hon. Merv Leitch, had been talking on May 10, 1977, during second reading:

> If they are not to have the right to strike, in fairness to them we must provide a system for resolving labor relations issues that is not only fair but is seen to be fair by them.

The other person the hon. minister quoted was Mr. C.A. Fraser, chairman of Division 3, who basically talked about fairness.

Mr. Chairman, in second reading debate on Bill 44 the Minister of Labour himself said, on page 1199 with reference to arbitration:

> That is our goal . . . a goal of treating both parties fairly . . .

Further, the minister states:

> This government is committed to the principle that the collective bargaining system should be able to work effectively.

The reason that I'm coming to the motion, why we believe we need some experts in this area to see what's going to happen after we bring Bill 44 in — I talked in second reading about why the hurry. Of course that was defeated. I would throw this out to the minister. In looking at the clauses of Bill 44 — and I'm going to get into the specific reason — we disagree with the minister's comments. I think we would agree with his sentiments that we have to treat both parties fairly that the collective bargaining system should be able to work effectively. We would agree with the sentiments. What we're saying is that we disagree with the clauses of Bill 44, and we think it's not going to have those intended effects. In particular, in this motion we're concerned about whether the arbitration process itself will be impartial.

I might point out to hon. members — and the Minister of Labour is well aware of this — that Canada is a member of the United Nations and a signatory to the ILO Convention. I'm saying to the minister through you, Mr. Chairman, that the fiscal policy section we were talking about in Bill 44 — and the minister spent some time talking about it — will probably contravene the decisions of the ILO and Convention 87 of the ILO. I think it's almost assuredly going to contravene those. Before we rush into a Bill that could possibly contravene ILO in the United Nations, I think we should be calling witnesses here to see what the intended effect would be. We must have expert witnesses to the committee in order to clarify whether or not we will violate our international agreements. I'm sure, Mr. Chairman, that the hon. minister would not want to violate an international agreement from the ILO of the United Nations.

We're saying again: what's the hurry? Let's check with some of the labor experts around. The hon. minister must know some labor experts. We know some labor experts. Perhaps we can call them in, ask some questions, and make a reasonable determination here. Everybody well knows how we in the opposition feel about the Bill and the process. But this is a serious matter if we are contravening the United Nations — to which Canada is a signatory.

Again I come back: why the hurry? Let's take the time and bring these witnesses in. Obviously the government was not prepared to wait for the six months. Perhaps we can go on. I know how much the members like sitting over the summer. But in an important Bill like this, we should be prepared to take the time to see what the experts in the field say, especially in relation to the ILO.

Let me just enlarge on what the ILO says, Mr. Chairman.

> The . . . provision requires that an arbitrator take into account government fiscal policy and thereby seeks to impose a system of informal wage restraint.

I don't think there's any way around. When the Treasurer has to write a letter about what the government fiscal policy is, I cannot see how anybody can say that that's not affecting the arbitration process.

> To the extent that an arbitrator is bound by government fiscal policy, he will have ceased to be an independent and impartial judge of an appropriate level of wages and working conditions.

I don't see how you can get around that if you have to take in government fiscal policy. We are suggesting, Mr. Chairman:

> Instead, he will have become a mere instrument to implement the government's policy of wage restraint. The provision requires a supposedly impartial tribunal to make a finding which implements the bargaining position of one of the parties to the dispute. An arbitrator acting under the statutory criteria set out in Bill 44 is not free to be impartial.

If the employer is actually saying, this is our fiscal policy and this is what you shall get, I cannot see how you can be an impartial observer.

This is where we come to the ILO:

> Insofar as the government has created an arbitration system that is not impartial, it has violated the provisions of Convention 87 . . .

And that is the freedom of association and protection of the right to organize convention of the International Labour Organization.

> In a series of cases dealing with the rights of employees in the civil service and essential services where the right to strike has been withdrawn and a system of interest arbitration substituted, the Committee on Freedom of Association has stressed the importance of impartiality.

This is the ILO. I stress again that they have said "the importance of impartiality". It has to be there to be fair.

The following paragraph summarizes the findings of, I believe, over 20 decisions and is taken from the digest of decisions of the Freedom of Association Committee of the Governing Body of the ILO. I will read this paragraph into the record, Mr. Chairman. This is from the ILO, and it says:

> The Committee has stressed the importance which it attaches, whenever strikes in essential services or the civil service are forbidden or subject to restriction, to ensuring adequate guarantees to safeguard to the full the interests of the workers thus deprived of

> an essential means of defending their occupational interests; it has also pointed out that the restriction should be accompanied by adequate, impartial . . .

I stress again the word "impartial".

> . . . and speedy conciliation and arbitration procedures, in which the parties can take part at every stage and in which the awards are binding in all cases on both parties; these awards, once they have been made, should be fully and promptly implemented.

Mr. Chairman, that's in paragraph 322, pages 100, 111, 118, and 119. That's the part that deals with the ILO and why we say clearly that because Bill 44 stresses that they have to take into consideration the government's fiscal responsibility, how can they be impartial? It clearly breaks the ILO. If it doesn't, I want to hear from labor experts in the field who can convince me otherwise, because everybody I've talked to says it's obvious that it's going to.

Maybe we don't care what the United Nations says. I doubt that. I would be surprised if that's what the hon. minister tells us, that even though Canada has signed an agreement under the ILO of the United Nations, we don't care what they say, that we in Alberta will go ahead and do it our own way anyhow. I'd be surprised and shocked if that's the case. Again, we still do not understand the speed at which we're pushing this through. If we are not prepared to take the six-month hoist, let's take the time to talk to people in the field to see if we are actually going against the ILO.

Mr. Chairman, it is clear to me that this Bill is designed to make arbitrators partial to government fiscal policy. Why would we put it into Bill 44 if that's not the purpose of it? I say very clearly that I believe it is in violation of Convention 87. Quite apart from the fact that the government should be reluctant to violate Canada's international legal obligations, the new criteria are patently unfair and ought to be rejected on that basis alone. It is dishonorable for the government to withdraw the right to strike and then to impose a system of binding arbitration that is not even apparently impartial.

Mr. Chairman, we made this comment in second reading, and I say this sincerely to members of the Assembly: we are changing a labor Act in a massive way. We are changing it in terms of taking rights of collective bargaining away from people and then even the compulsory arbitration that might have been acceptable to the ILO before. Before we make this move, before we create the confrontation that could come down the way with labor discord, we suggest that we bring in some people who are experts in the field, to take a look at it. I mentioned a number of people in Bill 22, and I won't bore the Assembly by going through those quotes again. I'm sure the minister knows certain people.

We can have the arrogance of pushing and shoving this through because there is a big House here of 75. But, Mr. Chairman, people will remember major Bills like this. If the government is so sure that Bill 44 is correct, right, and proper, what is the hurry? Let's go back. The six-month hoist obviously wasn't acceptable to the government; I'm not sure what is acceptable. But why in the world would we not take the opportunity to find out what we're getting into in terms of both fairness and what's workable, which we don't think it's going to be. We think it's going to create more confrontation. I issued examples from around the world last time. More than that, how can we be involved in something we don't know? I think it clearly goes against Convention 87 of the ILO. Why do we not wait and find out if it does? I do not believe the minister would want to be in clear violation of Convention 87 of the ILO. So I am suggesting, let's bring in a committee of witnesses from right across this country, if it takes that, before we bring in this Bill.

Mr. Chairman, in conclusion, the point I make is that we are bringing in a massive Bill that is going to affect thousands and thousands of people. I said it in second reading, I mean it sincerely, and I'll repeat it: a government that is powerful enough to take some people's rights away, other people in Alberta better recognize that that government is also powerful enough to take their rights away the next time. The next time they find a group that they think is unpopular in society, that stands up and fights against them and wins the arbitration process after they brought in the Act, and they don't like what they're doing, the only way they have is to pile them down with their majority. That is wrong in principle. More than that, I do not like what it's going to create in the future.

Mr. Chairman, I think we should come to our senses. What we are proposing isn't even saying, let's abolish Bill 44. The six-month hoist didn't say that; this doesn't say that. All it is saying is let's know what we're doing. I don't think there's anything wrong with knowing what we're doing by calling in the experts. I know government members think they're experts in everything, but they're not. Labor relations are a very delicate matter. It may be that they can hammer people down with this for a year or two, but Bill 44 will come back at some point to haunt this government. They can smirk all they want, but I will predict in this Legislature that it will come back to haunt them later on unless they come to their senses.

Thank you, Mr. Chairman.

SOME HON. MEMBERS: Question.

MR. NOTLEY: Mr. Chairman, I must confess that I am amazed, especially at some of the urban members from Edmonton and Calgary yelling "question" on the committee discussion of one of the most important Bills that this Legislature has dealt with. We should be taking all the time necessary. There may be some members who have a yearning to get away from this House . . .

MR. MARTIN: Just the silly ones like Rollie.

MR. NOTLEY: . . . some members who have all kinds of paths to follow in order to resurrect the fortunes of their federal leaders or heroes, and he has quite a tall order. But, Mr. Chairman, we are elected to serve the people of Alberta. That being the case, we have to seriously address the Bills that are before the House.

Mr. Chairman, the motion my colleague has put to this committee is that we take the time to summon expert witnesses. Some who frivolously assess issues would say we've done that. No one would say that is true in any real sense. We have provided opportunities for public hearings, and that's an important part of the process. We should have provided more time, Mr. Minister, for public hearings. But what my colleague is saying in the motion that is now before the committee is that as we review the legislation, there are pitfalls which are so serious that it would be worth our while as a Legislature to bring before this committee people who have outstanding competence in certain areas, who can appear as expert witnesses in order to advise this committee on fundamental issues that we must have an answer to before we vote yea or nay.

It's not a question, Mr. Chairman, of what members in the caucus decide in their cosy little meetings behind

closed doors. It's surely a question of where things stand on some pretty fundamental matters. Members can laugh all they like, but when they go back to their constituents they're going to have to be able to say: where do things stand on the issue of Convention 87 of the International Labour Organization? We can get ourselves all puffed up in our importance in this Assembly and say it doesn't make any difference what the ILO stands for; it doesn't make any difference what our national commitments are, that we have signed the agreement with respect to the International Labour Organization; we're going to go our own route in Alberta regardless of the facts.

MR. MARTIN: We're still part of Canada.

MR. NOTLEY: There may be some people, some extremists, who would take that position. Most Albertans, Mr. Chairman, even those who voted for the Conservative party last November 2, would simply say it is important to evaluate the concerns of the International Labour Organization. What is the point of this country being a signatory to the ILO conventions if we have a provincial government that, in its unbridled arrogance, is prepared to sort of set aside our ILO commitments and say, it doesn't make any difference what the ILO says, it doesn't make any difference what the signature of Canada means; in our own jurisdiction and our own little backyard, we are going to trample upon conventions that have been accepted by a body which is much more respected than this Legislature in the eyes of people in the world. I know this government has a self-inflated sense of importance. But once in a while it's necessary to look at where we really are and what we are doing to our country's name in the eyes of the world.

Why have we raised this issue? I say to members of the committee who are smirking and not prepared to listen: look at what we are being asked to vote for in Bill 44. I challenge any member of this committee to come forward and show my colleague and I, in an absolutely convincing way, why we are not in contravention of Convention 87 of the ILO. If you look at the provisions of this Bill, section 117.8:

> To ensure that wage and benefits are fair and reasonable to the employees and the employer and are in the best interests of the public, the compulsory arbitration board shall consider . . .

And we set out certain definite provisions. One of those provisions is the fiscal policy of the government as determined by a letter written by the Provincial Treasurer. Isn't that nice. He can change it from time to time; shift a fiscal policy of the government to suit whatever our collective bargaining position is.

MR. SHRAKE: Ray already said that.

MR. NOTLEY: Isn't that interesting, Mr. Chairman. Somebody says Ray already said that. A lot of other people are going to be saying it again, hon. member representing an urban riding. I'm amazed. I think the hon. Member for Calgary Millican would like to have his position recorded, so working people in the packing plants and other places in Calgary would know just exactly where he stands on this issue. They "shall consider" the fiscal policies of the government as determined by the Provincial Treasurer. Even if we had some sort of indication of what the fiscal policy was, but just a simple letter from the Provincial Treasurer can change from negotiation to negotiation. If we think we're going to lose a particular set of negotiations, all of a sudden we shift the fiscal policy. Isn't that interesting? What kind of approach is that?

Mr. Chairman, I don't know where these government backbenchers are. I fear to have to say that I don't think they have the foggiest understanding of collective bargaining at all. As members of this House, I think they have an obligation to at least try to be fair. We have the minister standing in his place when Bill 44 was introduced in second reading, talking about the need to be fair. We have all kinds of backbenchers now making frivolous comments over this issue. I'm going to take the time to read — some members may be upset; that's too bad. We're dealing with one of the most important pieces of legislation in this province. If the members get a little exercized about that, that's their problem and we'll not worry about it at all. You're getting well paid, hon. members, to sit and listen. If you don't like what you hear, that's too bad; you can leave. The government may lose its quorum, show its lack of interest in this issue. But we are going to carry on and raise these issues, notwithstanding the irrelevant rhetoric from certain people in the back bench. [interjections] The members are getting a bit excited.

My colleague raised paragraph 322 of the digest of ILO decisions, and I'm going to read that again because I think it's very important.

> The Committee has stressed the importance which it attaches, whenever strikes in essential services or the civil service are forbidden or subject to restriction, to ensuring adequate guarantees to safeguard to the full the interests of the workers thus deprived of an essential means of defending their occupational interests; it has also pointed out that the restriction should be accompanied by adequate, impartial and speedy conciliation and arbitration procedures, . . .

Mr. Chairman, "adequate, impartial".

The question is really whether or not — and I say this to the minister — the provision of a "shall", which includes the fiscal policy of the government as written out by the Provincial Treasurer, really meets the mandate of the International Labour Organization convention. I say to members of the committee in the most sincere way I can: it doesn't at all. We're talking about people's rights, and we're going to take away the right to strike.

I've talked to people in my constituency, Mr. Chairman and Mr. Minister, about finding some better way than strikes. We've had all kinds of fatuous comments from government members about some better way than strikes. We had the Minister of Hospitals and Medical Care, who is not in his place, tell us there has to be a better way. Well, if there's a better way that better way is to have a totally impartial system, a system which is not only impartial in fact but one which is seen to be impartial.

I say to members of this committee, how can anyone with any degree of intellectual honesty at all suggest that an arbitration procedure which forces arbitrators to take into account the fiscal policy of a group of politicians — somebody said unions are the most unpopular people. They aren't, Mr. Chairman. The most unpopular people are politicians; let's face it. [interjections] We rank absolutely last, and government members have to realize that they're in that category, too.

That the fiscal policy as determined by a group of politicians should be a mandate that arbitrators not "may" but "shall" take into consideration — even if the government had had the honesty to put this particular provision into the "may", they might have had some defence before the

International Labour Organization. I know of no credible person that we have sought out who could tell us with any kind of assurance that we are not in contravention of Convention 87 of the ILO as a result of this incredibly foolish, Alice in Wonderland position taken by a group of backbenchers who haven't a clue about labor management relations and who are thrusting this upon a minister who probably in his own mind knows a little more than some of the Neanderthals in the caucus do on this issue. [interjections]

Mr. Chairman, what we're saying is that before we get Alberta into a position where we embarrass the country, let's bring before us some credible expert witnesses. That's all. Then maybe if all the backbenchers are so shrewd — the Member for Edmonton Belmont, the Member for Edmonton Glengarry, and some of the others who have all the distilled wisdom of the world and universe sort of . . . Perhaps they may be right, and these expert witnesses will show that my colleague and I are wrong. Fair enough. We're prepared to accept that proposition. But I'm saying that before we embark upon this kind of approach, when we know that there are concerns about our international labor commitments, surely it is not unreasonable to take the time to think it through.

Mr. Chairman, in addition to the ILO convention my colleague mentioned, I'd like to suggest to the minister that the reasons why we should be calling expert witnesses are that we're going to have to live with this Bill long after members of this Assembly have adjourned for the summer. The minister is going to have to live with it. No responsible government can develop policies which contribute to disharmony, which confront people unnecessarily, which create problems. In any sense of responsibility, we have to ask ourselves what the alternatives are.

Surely the alternatives of a Bill that is implacably opposed by trade unionists in this province — and people have said some of the most outrageous things. I want to take this opportunity, Mr. Chairman, to tell the Minister of Hospitals and Medical Care — I'm sorry he's not in his place, because I particularly like telling him these things when he is in his place, so I can see his red face when he gets upset with my telling him these things. But the fact of the matter is that some of the things he said about Margaret Ethier were just outrageous. If he said those things outside the House, he'd be sued for the last dollar he had for some of the irresponsible statements he made inside this committee.

The fact of the matter is that that kind of degrading performance by a minister does not alter what we are being asked to do in this committee. We are being asked to support a Bill which is taking away the rights of people. Those rights may vary. The minister may have first-class rights, second-class rights, whatever. As I recall his arguments in second reading, some rights are more important than others. But let me tell you: to the people who have spent a lifetime organizing the rights of people to bargain collectively, what we are taking away is a right which is fundamental.

Let me also say one other thing. I know some of the people in this House, with a simplistic view of economics, would say: we have the labor movement on the run; 16 per cent of the non-government employees are organized, so who cares? Somebody takes a public opinion poll in one of the ridings and says, the majority of people say let's clamp down on unions. Isn't that smart? So we as politicians decide to jump on that bandwagon. Somebody takes another public opinion poll and says that the current swing is to the political right, so we jump on that bandwagon.

Mr. Chairman, I remind members of this committee that the time when we saw the greatest strides in the history of organizing people came in economic difficulties during the 1930s in the United States, when the CIO was organized, and in Canada when its counterpart was organized. Sure, in the early stages of that recession, that depression — in 1929, 1930, and 1931 — you couldn't organize anybody. But the minister knows enough labor history to know that by the late '30s and the early '40s, the pendulum had swung back. One of the few things I agreed with the Minister of Hospitals and Medical Care on was that the pendulum swings.

I'm saying to members of this committee that surely it is wrong to take away fundamental rights. Even for those who want some degree of stability it's not sensible, because people are going to fight back, Mr. Minister. You and members of this House, in their total arrogance, may think that the trade union movement in this province is a paper tiger that doesn't have the zip or the gumption to fight back. I want to tell any member in this House who has the courage to listen that if you think that is the case, you know nothing. You know absolutely nothing about the trade union movement in the province of Alberta.

All we are saying at this point is that before we move beyond the point of no return, let's think about what we're doing. I see some people laughing. I could go back to my riding and give an anti-union tirade. It's very popular; no question about that. But the issue is not what is ahead in the Gallup poll at any given time. The issue must surely be what is workable and what is right. Before we get ourselves into trouble with international labor organizations, before we create a climate of confrontation, frustration, and alienation, before we create in Alberta two solitudes which are irrevocably separated because of labor and capital on one hand, let us think about what we are doing.

I have yet to hear from any of the government members, from any of the cabinet ministers — the Minister responsible for Personnel Administration, the Minister of Labour, or any of the people who, I think, have some sense of what they're doing, or the backbenchers who I know have no sense of what they're doing. I have yet to hear any reasonable arguments as to why this province should embark upon legislation which is shameful and a dishonor to our international commitments.

[Mr. Purdy in the Chair]

MR. STEVENS: Mr. Chairman, I'll let the opposition members determine whether or not I'm in that good company of Neanderthals, Cro-Magnons, Piltdown men, or Leakey's identifications. I'm kind of happy to be there. I think it's preferable to being in the position of the Leader of the Opposition or the Member for Edmonton Norwood, which is a position of being gadflies in this House. I remember that when the short-termed Member for Olds-Didsbury, the separatist, was in the middle of some rhetorical remarks one day, I called out the word "rubbish". I was trying to think of a word tonight that would fit what we've just been listening to. I think the best I can come up with is "poppycock".

The Member for Edmonton Norwood introduced this amendment to suggest that the committee summon expert witnesses. Members of the House will recall that during the public hearings held recently for four days — very informative for those of us mainly on the government seats who sat and listened to all the presentations and

who, I know, have read all the written submissions. It's very interesting to note that Albertans who were here representing other Albertans who had concerns about the withdrawal of service, the arbitration adjustments and settlements, and the pendulum, made their submissions and then gave each member of this House the opportunity to dialogue and ask questions.

But there were some notable exceptions. The notable exceptions were the mindset of the unions and the executives of those unions who deliberately spoke 37, 38, 39, or 40 minutes when they made their presentations. They have enough income from their members to have all the expert witnesses they need. Many of those organizations had expert witnesses here before the Assembly. But did their strategy allow this House the opportunity to question those expert witnesses? Now we have the Member for Edmonton Norwood suggesting that we call expert witnesses. We had expert witnesses here, and their strategy was to deny this House the opportunity to question those witnesses.

I will, though, refer to one of the days of the Standing Committee on Public Affairs, April 28, 1983, when there was an expert witness here, one of the panel brought forward by the Alberta Union of Provincial Employees, a solicitor. That solicitor was asked a question by the Member for Calgary Buffalo:

> . . . I pose the questions: given the lack of clear direction to arbitrators and your position . . . why would you . . . object to their inclusion within the Act?

The answer from the expert witness:

> Mr. Chairman, Mr. Booth has asked me to respond. The simple point is that there's no weighting given in the proposed Act either. You're simply setting out a . . . pile of criteria.

This exchange went on for about 30 seconds. Basically, the expert of the Alberta Union of Provincial Employees said, those are criteria which the arbitrators are to consider.

Turning to the arbitration boards for a moment, very briefly, I'd like to summarize what happened as a result of those 12 arbitration boards and their conclusions. All boards recognized their obligation to apply the Public Service Employee Relations Act criteria, section 55 in the present Act, with one exception. There was no commentary on the reasons for the awards given. Yet all boards refer to the negative state of the economy at the time of the hearing and the high size of the salary adjustments that occurred previous to those agreements. Several boards indicated that their awards were tempered by the size of the first award. Several boards also referred to the need for the awards to be perceived as being fair not only to the employer and the employees but to the public. Three boards indicated that there was a concern in their minds that the section 55 criteria were not ranked, did not have a priority. One board specifically said that non-unionized wage settlements should have been considered. There was no evidence of any delay determined by any board.

Finally, in response to the Leader of the Opposition's comment, to quote — I think it's a very timely quote — Division 4, the arbitration board award, one of which was appended to the Alberta Union of Provincial Employees submission to this House:

> Nor is it reasonable to suggest that the Section 55 criteria which we are obliged to consider are static and unchanging as to the weight to be given to each of the factors to be taken into account. Surely, the relevance, and thus the weight, changes as social and economic times change.

My next point, Mr. Chairman and members — we've had a game, I suppose, the delaying tactic approach, of the last amendment, which I'm pleased the House voted against the other day. That amendment would have meant that this House would have been denied the opportunity to do what we in fact are doing tonight: debating the issues, techniques, and the opportunity to discuss the content of the Bill. That would have delayed that and would have meant that we would have all been reading newspapers, listening to radios, or watching television to have some idea of what's important, rather than hearing from our colleagues in the House.

I did listen with interest to the comments made by the mover of this amendment and the Leader of the Opposition. But it makes no sense to delay. That's what this is: a delaying tactic.

Finally, Mr. Chairman, I would like to mention the International Labour Organization and how convenient it is for members of the opposition or executives of the Alberta Union of Provincial Employees to quote sections of decisions and not all of the facts. First of all, the ILO and its committee on freedom of association will not give any further consideration to complaints of this nature. Their decision has been made and rendered. Alberta has not violated Convention 87. I have said that in the House, outside the House, and I'll continue to say it. It is in their words.

MR. NOTLEY: But that's not for this Bill, Greg.

MR. STEVENS: For a moment, we could review what happened that led up to the charges that were brought before the ILO. Going back to 1980, we can recall the illegal strikes at that time of some of the public service employees. The majority remained at work. I don't need to go over all the detail. I would like to go to the decision by the hon. Chief Justice of the Court of Queen's Bench of Alberta in July 1980. You can recall that at that time, there was a serious problem in Alberta. We had members of the public service defying the laws of this province, taking illegal actions while their colleagues were remaining at work. So some of those members created the opportunity for others to ask questions: what about the law; where does the law stand?

In July 1980, the government of Alberta applied for an injunction. On July 9, Justice Decore granted the injunction and gave his order. I have his order with me, and it's interesting to see that he basically says that persons having notice of the order:

> "Are . . . enjoined and restrained from engaging in slow down, stoppage of work, or unlawful strike" . . .

He went on to say that, secondly:

> "Any other person or employee of the Government having notice of this order is enjoined and restrained from watching the . . . picketing" . . .

and that includes any government premises in the province of Alberta.

On July 15, when employees continued to disobey that order of a judge, the Crown proceeded with an application to have six of those employees held in contempt of that order, and that case was presented to Chief Justice Sinclair. During the contempt hearing, counsel for the employees took the position that the Act was unsound, a nullity, and that therefore the employees had a lawful excuse to disobey the court. The Chief Justice agreed to

hear arguments both for and against, which he did. But in the interim, the Chief Justice of this province concluded that he had

> no option but to find that each of the respondents is in civil contempt of the Court of Queen's Bench . . .

He further said:

> This is the first case to come before this Court arising out of [the present] series of unlawful strikes; unlawful certainly in the sense that they are in breach of the order which was given by Justice Decore [a few days earlier].

So he considered the situation very carefully. After all, this was the first time this had been brought before this learned officer of a court. He considered very carefully whether he would impose a jail term to show the abhorrence, which all Albertans would share, which our Court, not as individuals, not himself as the Chief Justice, but the Court collectively as representing the citizens would feel towards the breach of an order. But he came to conclusion that a fine would be appropriate, and it was a serious fine that he rendered.

He then went on to give a separate judgment two days later, on July 25, with regard to the union's contention that the government of Alberta was in violation of the International Labour Organization convention. He considered that matter, also whether or not the province of Alberta was empowered to legislate in violation of Canada's international legal obligation and, thirdly, whether the province and this Act, the Public Service Employee Relations Act, is *ultra vires* the provincial Legislature.

AUPE's submission referred to several international documents. Part 13 of the Treaty of Versailles was mentioned, which led to the creation of the ILO. Then the ILO Convention 87, mentioned tonight, covering the freedom of association and protection of their rights to organize was brought forward and, finally, the adoption of that convention by the ILO in 1948 and by Canada in 1972. A third submission made by the union was the United Nations Covenant on economic, social, and cultural rights adopted in 1966, and Canada's subsequent adoption of that in 1976.

Chief Justice Sinclair carefully outlined in detail the arguments put forward by counsel for AUPE and counsel for the Attorney General, and finally gave his findings. His findings, Mr. Chairman, are these: the Justice is firmly of the opinion that it is not part of the customary international law that there is a right to strike in the public service, except in the case of essential services. He went on to say: none of the ILO documents filed with the president of AUPE's affidavit expressly mentioned the right to strike at all, but only the right of association and of collective bargaining; on the other hand, the United Nations Covenant mentions that right, but places a restriction on such right on persons involved in the administration of the state.

The more one studies the ILO case 893, and the 1977 and [1978] reports of the ILO conference on the freedom of association, the more it appears, the Justice went on to say, that there is far from universal consent as to the right of strike in the public service. The Justice writes:

> As a result, I am convinced that it is not, and never has been, part of the customary international law that public servants have the right to strike.

We've been hearing rhetoric and misleading statements for about two years, but those are the facts as determined by the Chief Justice. He then went on to determine the question of whether the prohibition against striking contained in the Act is contrary to international conventional law. The union said it had a right to organize and to bargain collectively, but it's only in the United Nations Covenant that mention is made of both that right to organize and the right to strike. According to the Justice

> . . . the effect of all this material from a legal point of view is that the Government of Alberta is in no way bound by the I.L.O. recommendations which do not and have never formed part of the law of Alberta.

He was also of the opinion that

> The Public Service Employee Relations Act is neither in whole or in part in violation of Canada's international legal obligations . . . [nor is it] ultra vires the Legislature of the Province of Alberta.

Some members may recall that that decision was challenged to the Supreme Court, and the Supreme Court dismissed the application. It's about time that members of the New Democratic Party read all of the facts when they read some of the facts.

Mr. Chairman, to conclude: to vote to amend the procedure of this committee, to summon expert witnesses when the Committee on [Public Affairs] was denied that opportunity to speak directly in this House to some expert witnesses who were brought to us by the unions, to continue the delay when it is time to move on and deal with this Bill in committee and make sure that we are not only doing what is right but have the opportunity to present that position to our constituents . . .

Thank you, Mr. Chairman.

MR. LYSONS: Mr. Chairman, I'd like to join in on this motion this evening. I'm very puzzled with the Member for Edmonton Norwood bringing in the motion at this particular time. As the Member for Banff-Cochrane said, we had assumed there were expert witnesses here on the floor of the Legislature.

However, that wasn't what got me up to speak. It was the hon. Leader of the Opposition. He had his raw meat for supper, and I hope he enjoyed it, along with the other members of the flat earth society. I don't know whether you were trying to dazzle us with brilliance or baffle us with b.s., but regardless, when you say that we Neanderthal backbenchers have no ideas about labor relations, how do we get here? How do we have businesses and have them running if we don't have some idea of labor relations? Some of us actually worked for a living, for a salary. Can you imagine working for a living and doing a manual job for a salary, Mr. Leader of the Opposition? I hardly think you know what it means. [interjections] And you're accusing us of having a simplistic view of economics. Well, my friend, maybe we have. Maybe we believe in the ability to work and be paid for what we do by how hard we work.

What most people in my constituency tell me is that they are very pleased with this legislation. The tantrum you had and your threats . . .

MR. DEPUTY CHAIRMAN: Would the hon. Member for Vermilion-Viking use common parliamentary language.

MR. LYSONS: Mr. Chairman, I will from now on. I'll do my best.

The whole principle behind this Bill was to protect people; for instance, so patients in hospitals are not worrying, every few months or every few years, about going in for an operation and having it postponed because there's a threat of a strike. That is pretty important

to the people in my constituency, and it's pretty important to me being their representative. I think it's very clear when you look at the numbers of members in this Legislature that have much the same view as the voters in Vermilion-Viking. If they had the leader's view, there would be more NDP. I could hardly ever imagine that. But if he was as correct as he pretends he is, then wouldn't that follow? Or do you maybe have a Neanderthal view, Mr. Leader?

MR. NOTLEY: Don't say "you", Tom. That's unparliamentary.

MR. LYSONS: All right. I didn't take poli science; I learned the other way. Mr. Chairman, there are some of us who worked with our hands, our heads, and our strength, other than the strength of the tongue.

In all fairness to the Leader of the Opposition, most people by far have said, thank goodness this Bill is coming in; thank goodness we don't have to worry about having the duty to strike. It's not a right sometimes; it's their duty. When you have that kind of situation where you have young people working and paying off a mortgage on a home or whatever, and then their union steward or whoever tells them — I don't know that much about unions. What we have for unions in our area work very fine. No problem, as the hon. leader suggests, that we're going to see whatever he sees. Back home in the country, we don't hear that kind of complete nonsense. People want to work; they want to get on with the job, caring for the sick, building our highways, or doing whatever, not this baloney of carrying pickets and . . .

MR. NOTLEY: How do you like the ambulance system on those highways, Tom? Especially in Vermilion.

MR. LYSONS: Mr. Chairman, I can only say to you and to the members of this Legislature that I'm quite pleased with the Minister of Labour. I'm pleased with the Bill, and I'm pleased that he took the time, along with the other members of caucus, to work out the rough edges in the initial draft of the Bill and bring it back as a solid, good piece of legislation.

Thank you.

MR. R. SPEAKER: Mr. Chairman, I'd just like to make a few remarks with regard to the resolution. If I read the resolve correctly, it's requesting the government to take some time and listen. I think we should just focus a moment or two on that concept of listening. In the last Legislature, the 19th Legislature, we started in 1980 talking about the government listening. All of a sudden, about September 1982, the government started to listen because they were going to the people. I remember that change in attitude . . .

MR. NOTLEY: One month every four years.

MR. R. SPEAKER: . . . as we closed up the spring Legislature. Ears were forming on the heads of many members of the Legislature.

MR. COOK: On a point of order.

MR. R. SPEAKER: Even Rollie Cook was starting to listen.

MR. DEPUTY CHAIRMAN: The hon. member is asking for a point of order.

MR. R. SPEAKER: Oh, is that what he's doing?

MR. DEPUTY CHAIRMAN: Yes.

MR. COOK: On a point of order. The Member for Little Bow was talking about listening, and maybe he ought to. The point of order is simply this, Mr. Chairman. The rules of the committee are that in committee we have to be precisely on the topic being debated. The hon. Member for Little Bow is wandering when he talks about the election campaign, times before, and listening. I don't understand how that relates to the Bill before us.

MR. DEPUTY CHAIRMAN: The debate this evening for the last hour and a half has been kind of far-reaching, and I cannot make a ruling at this time.

MR. R. SPEAKER: Mr. Chairman, that's a very fine observation. With that direction, I'll maintain course.

MR. NOTLEY: There go another five votes for Joe, Rollie.

MR. R. SPEAKER: But the commitment to the people of Alberta in November 1982 was to continue the listening process, that the government would open, available, and would listen to what was going on. But we're starting the 20th Legislature, and again the same format is before us: a government in a hurry to get legislation through; in one sense a hurry but really in another sense, the strategy is to get the legislation through this Legislature so that by the time of the next election, the people have forgotten and that, hopefully, we'll elect another Conservative government. That seems to be the process.

The only difference is that before this last election, when the government all of a sudden started to listen, they were able to reach into this large bag of heritage money and finance and pull out $8 billion, that we got scattered amongst the fine people of Alberta, $8 billion to spend between 1982 and the next election, to commit to all kinds of promises. [interjection] You add it all up: that $4.5 billion back to the oil companies and so on; add it on. You certainly can find $8 billion. Here we are at this point in time, First Session of the 20th Legislature. Again we're asking the government to listen to what is being said, to take a little more time, to hear some more advice. In this Legislature, we only heard 20 out of 50 potential briefs.

MRS. CRIPPS: You didn't hear that many.

MR. R. SPEAKER: Why did we have to cut it off? The hon. Minister responsible for Personnel Administration says in this Legislature that the groups spoke for 39 minutes, then left one minute for questions so no one could answer, and that they came in with a preconceived attitude. Well, when they came into this Legislature, they knew that the minds of this government and caucus were fixed and there were going to be no changes in the main principles of the Bill. So they said, why not come in, unload everything we can, say what we want, have our say, because that's going to be it. That's the end of the road. Then we go back to our organization's office and try to let our wounds heal for the next three years until we are faced again with an election.

MRS. CRIPPS: Oh, bull.

MR. R. SPEAKER: That's the truth. That's exactly what the process is. If the government had allowed the Bill to sit on the Order Paper through to the fall — and there's no reason why that couldn't have happened — heard these groups out and maybe have done the same thing, but the process of listening would have at least been accomplished. Groups could have had their say more than once, not on a limited time, not on a squeezed schedule of 40 minutes. The gong goes down, and you're out. We could have possibly had some better suggestions for the legislation. The other 30 groups could have made presentations. Other experts, as are designated by this "be it resolved", could have come before the members or the minister during the summer break.

What would it have hurt? There are no contracts that are before us before the end of December of this year. I think January of 1984 are the bulk of the contracts that we face, that will be dealt with by this legislation. Why are we hurrying? Why are trying to rush the thing through? I would only have to observe that 75 government members have been elected on that side of the House. They have the power. We don't have to listen for a couple of years, let's just get rid of this thing. The political hay that's in it for other political parties we can stop immediately. Let's do that. So the process is damaged because of that. That's certainly not a responsible stance to take, Mr. Chairman.

I had hoped that even the Minister of Labour would reassess that and say, I have taken enough flak personally through the papers, through the media; my relationship between government and the various labor groups in this province has been damaged, there's no question about that; maybe there is a possibility of redeeming that. One of the suggestions certainly is to — I'm not sure what it is, but we don't have to extend this spring Legislature. Possibly the minister and a committee could meet through the summer session. Early in the fall session, we could again have some type of representation made with regard to Bill 44. Following that, we can pass it, defeat it, or whatever the case may be.

The process is available to us at this point in time, and I don't think the government really has taken that time factor and that listening responsibility into consideration. On that basis, I think the motion by the hon. Member for Edmonton Norwood has some merit at this time.

MR. YOUNG: Mr. Chairman, the hon. Leader of the Opposition, when he was making some of his observations, reflected upon the low esteem in which politicians are held. Then he proceeded to lower that esteem for anybody who was watching this Assembly. I feel sad when that has to happen to this Assembly and to politicians generally.

MR. NOTLEY: Buck up, Les.

MR. YOUNG: In his best exaggerated Dale Carnegie, which he has apparently acquired over the spring, in my judgment he did his very best to lower the esteem of the public for this Assembly and for politicians. As I say, I am saddened about that.

MR. NOTLEY: Just Conservative politicians, Les.

MR. YOUNG: Mr. Chairman, one of the problems I have in achieving the objective of the hon. Member for Edmonton Norwood and his leader, which was to demonstrate in an absolutely convincing way that this Bill would achieve such and so, is that it's impossible to demonstrate in an absolutely convincing way to persons who are still locked up in the class struggle, which is the very essence of Marxism. [interjection] Check *Hansard* if you don't believe that you said it.

MR. NOTLEY: You've got to be kidding.

MR. YOUNG: Mr. Chairman, unfortunately, I'm not kidding. I actually heard both hon. members speak of the class struggle. In that context, if one has that view of society, it's indeed regrettable. What we are trying to achieve with this Bill is not anything that can be taken from the class struggle. We are trying to achieve a basis of equity as between private-sector and public-sector employees.

There are a few principles that should be reflected upon. One of the principles is that it's a fundamental responsibility of this Legislature and of any government to provide a balance between the private-sector and the public-sector employees, whom we, I trust, respect wherever they are. It is fundamental that we try to provide justice to citizens as recipients of public services. The hon. Member for Vermilion-Viking reflected upon that great difficulty. Those of us who listened to our constituents during campaigning in the last election, who listened during strikes that we've had that interrupted important hospital services, understand very keenly that there is a balance that has to be struck — and we are the ones who must strike it; we are the ones who are responsible — between the privilege and the capability to have a strike as a means of resolving an impasse, which in my view is not a part of a fundamental right. Fundamental rights, as the hon. Leader of the Opposition should well know, are rights such as freedom of association and freedom of speech.

The ability to bargain collectively — and he may check the ILO documentation. The ILO, in the manner in which it treats collective bargaining, clearly demonstrates that it isn't a fundamental right. It goes further: it is a lower order of ability even that there should be a capacity to have a strike. That is well recognized in the ILO documentation that the hon. Member for Edmonton Norwood read tonight. [interjections]

Mr. Chairman, the very essence of this Bill that has attracted so much attention is those two basic points: the need that we have to assure the needed services of the population and to be fair to them and, in the second instance, the need to assure that the arbitrators, if they are necessary to resolve an impasse, take into account comparability in its widest and most precise form that we can give it and also the responsibility for government fiscal policy. Those are not weighted in terms of the expression in the statute and, therefore, there is a vast area of judgment for the arbitrators or whoever must weigh those matters. In that sense, I think it will be a very great challenge for anyone to show that there is in any way a loss of impartiality, to use the hon. member's expression.

Mr. Chairman, I would recommend to all hon. members to vote against the amendment as proposed.

MR. DEPUTY CHAIRMAN: Is the hon. member concluding debate?

MR. MARTIN: Mr. Chairman, I will deal with a couple of statements and I think they will say why we have a problem. First of all, the hon. Member for Vermilion-Viking said it is their duty to strike. If this is the expertise of the House, it shows what the problem is when you come to this House and try to deal with delicate labor negotiations. I think every trade union around would be interested to know that they have a new duty: it's their duty to strike.

I am surprised by the Minister of Labour. He must be getting tired; it's probably past his bedtime. I didn't expect him to start talking about class struggles, Marxism, and all the rest. We could get into terms like Fascist and all the rest if we want to get to that level, if that's what he's talking about lowering the debate. What we are talking about is a very serious labor Bill. That's the point we've been trying to make, Mr. Minister. It has nothing to do with class struggle; it has to do with fairness, that you've talked about.

The point that we're trying to make, Mr. Chairman, is that this is an unfair Bill. Surely as an opposition, whether it's a popular Bill or not, we would be remiss in our responsibilities if we did not fight this Bill if we thought it was wrong. I must admit I did not expect that from this minister.

The other point I will try to direct to the person that tried to be rational about it, the Minister responsible for Personnel Administration. He tried to make some points. I stress tried. The Member for Little Bow said it well, Mr. Minister. There was a perception that this was going through, and nobody thought for one instant that whatever they said here would make any difference at all. So clearly, what the people who were affected did was come here — and as the Member for Little Bow said, they don't often get an opportunity to vent their feelings. That's what they did. They knew the whole thing was a charade. We pointed out that is was a charade right from the start. I predicted at the start there would be a few cosmetic changes but nothing would change; the government's mind was made up. This is exactly what happened. So they didn't take it seriously. It was not consultation.

The other point I would make . . .

MR. KOWALSKI: On a point of order, Mr. Chairman. I believe the Member for Edmonton Norwood is doing a disservice to a number of groups that came before this committee we had several weeks ago. I would just like to refer the Member for Edmonton Norwood, as well as all other members, to *Hansard,* April 28, 1983. I would like to quote from a presentation made by the Alberta Association of Municipal Districts and Counties. I would like to quote on the point of order with respect to the seriousness that a number of groups took in presenting their comments to this committee. Mr. Alger said:

> Believe me, it's quite a pleasure for me and for all us us to hear a brief that is brief.

Mr. Miller, who is the president of the Alberta Association of MDs and Counties, responded:

> First, thank you for your comments. We are old fashioned. We still say "now" instead of "at this point in time" when we have the occasion.

I would further refer the Member for Edmonton Norwood to the adjournment time located on page 72 of *Hansard* of that date, to indicate that a number of groups that appeared before the committee came in in all honesty and seriousness.

MR. DEPUTY CHAIRMAN: I'm not sure if the hon. Member for Barrhead has a point of order, because it hasn't been stated yet.

MR. KOWALSKI: I'm coming to that point by way of conclusion, Mr. Chairman. Basically a large number of the groups that came before this committee and made their presentations came in total seriousness, with a message to present to all members of the committee and, furthermore, gave members an opportunity to raise questions with respect to the submissions they did made. [interjections]

MR. NOTLEY: On the point of order, the member well knows that as *Beauchesne* clearly points out, a difference over what the assessment of facts may be is not the subject of a point of order but a difference of opinion. What one may or may not conclude from the views of representations to this committee is not the subject of a point of order.

MR. YOUNG: Mr. Chairman, on the point of order, it is very clear in *Beauchesne* that one shouldn't reflect in the House in a negative way upon the actions of this House once those actions are passed. Calling the hearings a charade is certainly doing that.

MR. MARTIN: My, are they touchy. My goodness gracious. Poor little fellows.

MR. COOK: Mr. Chairman, on the point of order. The Member for Barrhead is . . .

MR. R. SPEAKER: Mr. Chairman, on a different point of order.

MR. DEPUTY CHAIRMAN: Order please, so we can hear the Member for Edmonton Glengarry, and then the Member for Little Bow.

MR. COOK: Maybe the Member for Little Bow could sit down. Mr. Chairman, I'd like to make the point that the hon. Member for Barrhead was making a point that is as relevant as the speech from the Member for Edmonton Norwood was on his amendment. He's not speaking to his amendment on the main motion at all.

MR. DEPUTY CHAIRMAN: Order please. The hon. Member for Edmonton Norwood is now closing the debate on his motion.

MR. COOK: But, Mr. Chairman, he's not relevant. He's not speaking to his motion. He has not discussed once the need for witnesses or more information.

MR. DEPUTY CHAIRMAN: Order please. Would the Member for Edmonton Norwood carry on.

MR. MARTIN: Thank you, Mr. Chairman. The point I come back to is that that was the perception. What I did say was that the groups that were affected the most — if the Member for Barrhead had been listening. Why we brought in this motion — the ILO says it very clearly and I'm surprised, when it's right in front of me, that the Minister of Labour would deny it. Paragraph 322 says, and I will say it slowly this time:

> should be accompanied by adequate, impartial and speedy conciliation . . .

That's all you need to say: "impartial". How anybody can say that when you have to take in the fiscal responsibility of the government, who is the employer, that that's impartial . . .

MR. NOTLEY: By letter from the Provincial Treasurer.

MR. MARTIN: . . . by letter from the Provincial Treasurer, then that is a new form of impartiality, a new way to define impartiality. It's been defined here in this Legislature.

MR. NOTLEY: Absolute nonsense.

MR. MARTIN: The other point we want to make about health care — and I think what was mentioned by the Member for Banff-Cochrane has to be taken into account. This is what a number of the groups said. This is what has occurred, as I mentioned, in Ontario and other parts of the world. Just abolishing strikes does not stop them. As he pointed out, when people feel badly enough — they did this in 1980 in Alberta. If they feel the law is wrong, you're not guaranteeing there is going to be safety in the hospitals by doing this. In fact, if you look at the history of what's happened in the world, in labor negotiations, usually the people who are the most restrictive have the most strikes. That's inevitably what happens. If that's what we want, confrontation — I don't think the minister wants that — then I suggest that's exactly the road to go, and you're going to get into it.

The key point we must remember, why we've asked that there should be some time to cool off over this, is that this cabinet took upon themselves a right to abolish any strike, any time they wanted — any time they wanted, Mr. Chairman. So it's a farce to say that people would be injured or dying in the hospitals, because they had the right to terminate it anyhow. We suggest it should be the Legislature. They always had this right, and so it should be. Any Legislature needs this right. But this government has even centralized power more to the cabinet rather than having to do with it. To say they had to bring in this whole Act to protect people in the hospitals is stretching some. They just do not want to take the political flak; that's all. It's nice to have a Bill where nobody has the right; therefore, it's not going to be messy. It's going to be undemocratic. There are countries all over the world that don't believe in democracy, and this is one of the ways to do it.

The point we have to make very clearly, Mr. Chairman, to the minister is that you always had the right to terminate a strike, as you well know because you did it two or three times. So we should not kid ourselves about that. The fact is that there are experts. If you look through labor legislation, anywhere I can look at it and find it — other than from Amway corporation or something — they say very clearly . . . And this is why we've called for this group of experts to come in and tell the Legislature about delicate labor negotiations. There'll be a number of people who will say it just won't work. I don't understand the reluctance of the government to keep pushing through this Bill, as the Member for Little Bow said, unprepared for a six-month hoist, unprepared to listen to some of the experts in the field because they might learn something. Why is it so necessary to push this Bill through?

Again, Mr. Chairman, I believe the only reason is that they feel they have an unpopular group, and they're going to trample them. They think it's popular to do that. But I say to you, it doesn't work and it won't work in the future. The minister is going to rue the day he didn't listen seriously about labor negotiations with a six-month hoist or even this Bill. Down the way, he will regret it. I know inevitably he will. If there were people in this Legislature who had calmer heads and would sit down and think about it, they would come to that realization. I even expect there are people in this Legislature, not only on the opposition side but in the government, who know deep down that we're right on this issue. But I don't expect they're going to vote against the government.

It would not take much to bring in experts when we're changing a whole labor Act that could create a lot of confrontation in the future. Mr. Chairman, it wouldn't take that much backing off. If the minister can prove to me that a number of people came in and said, Mr. Minister, and to the Legislature, Bill 44 is a model of the way labor legislation should go, it works well in other parts of the world, then I would say, okay.

The other point we make — and I was surprised by the minister from Banff-Cochrane saying that we're in Alberta; we don't have to listen to the United Nations. Obviously he's right in that sense. But surely, when Canada is a signatory to the ILO, that should have some weight on what we do. That's a civilized organization that's laid out guidelines to the way people should react in terms of labor relations.

MR. DIACHUK: So is the Soviet Union, Ray.

MR. NOTLEY: So is the Soviet Union. Isn't that incredible? Shame.

MR. MARTIN: Yes, and Poland would be proud of the Alberta government today for doing exactly the same thing, taking people's rights away.

MR. DIACHUK: You support them, not me.

MR. NOTLEY: What a shameful thing to say.

MR. MARTIN: Mr. Chairman, without getting carried away, there is a very close parallel here between Solidarity and Poland, and what they're doing right here with this Bill. [interjections] They may laugh about it and may be uncomfortable, but the hon. minister knows. [interjections] They can shout, hoot, and yell all they want. It must be getting under their skin a little bit, or maybe they're just getting tired. I'm not sure. They're not used to staying up late.

But the point we make in conclusion, Mr. Chairman, is that this is a bad Bill and we are going to oppose it. Down the way, the government will regret that they brought it in.

Thank you very much.

MR. NOTLEY: Rue the day.

[Mr. Deputy Chairman declared the motion lost. Several members rose calling for a division. The division bell was rung]

[Eight minutes having elapsed, the House divided]

For the motion:

Martin	Notley	Speaker, R.

Against the motion:		
Adair	Fischer	Payne
Alexander	Fyfe	Pengelly
Alger	Gogo	Shaben
Anderson	Harle	Shrake
Batiuk	Hyndman	Sparrow
Bogle	Jonson	Stevens
Bradley	King	Stiles
Clark	Koper	Szwender
Cook	Kowalski	Thompson
Crawford	Koziak	Topolnisky
Cripps	Lysons	Webber
Diachuk	McPherson	Young
Drobot	Musgrove	Zip
Embury	Paproski	
Totals:	Ayes – 3	Noes – 41

MR. DEPUTY CHAIRMAN: We have the amendments to the Bill to consider.

[Motion on amendments carried]

[Title and preamble agreed to]

MR. YOUNG: Mr. Chairman, I move that Bill 44, the Labour Statutes Amendment Act, 1983, be reported as amended.

[Motion carried]

MR. CRAWFORD: Mr. Chairman, I move that the committee rise and report.

[Motion carried]

[Mr. Speaker in the Chair]

MR. PURDY: Mr. Speaker, the Committee of the Whole has had under consideration Bill 44 with some amendments.

MR. SPEAKER: Having heard the report, do you all agree?

HON. MEMBER: Agreed.

MR. CRAWFORD: Mr. Speaker, tomorrow the House will consider the supplementary estimates of the Department of Energy and Natural Resources and, following that, if there's time, second reading of Bills on the Order Paper. Some will be held. I suggest that Bills 38 and 68 are likely to be called tomorrow and, if there's time after that, committee study of Bills on the Order Paper.

[At 10:34 p.m., on motion, the House adjourned to Wednesday at 2:30 p.m.]