

Legislative Assembly of Alberta

Title: **Monday, May 2, 1994**

8:00 p.m.

Date: 94/05/02

[Mr. Speaker in the Chair]

MR. SPEAKER: Please be seated.

head: **Government Bills and Orders**

head: **Third Reading**

Bill 5

Oil and Gas Conservation Amendment Act, 1994

MR. SPEAKER: The hon. the Minister of Energy.

MRS. BLACK: Thank you, Mr. Speaker. I'm pleased to move third reading of Bill 5.

MR. SPEAKER: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you very much, Mr. Speaker. If it pleases the Assembly, I have filed with the Table officers some considerable business – which will be distributed shortly, I presume, or is in the process now of distribution – as it relates to this Bill 5 in its third reading. I should advise the House by way of preliminary comments that there are three matters identified on the same sheet of paper, two of which fall within the definition of what the Legislative Assembly refers to as reasoned amendments, the third of which is what the Legislative Assembly refers to as a hoist.

I notice that that paperwork is just being distributed now, Mr. Speaker, but while we are in that lull for the distribution, I wonder if I might advise the Assembly that in accordance with your direction and concern that paper be conserved, all three of these matters appear on one sheet of paper. The considerable advantage of that is that all members have an opportunity to review all three matters as the debate progresses so that they may be in tune with all three matters. I would advise the Assembly that we would intend and it would be my submission and application tonight that in fact the matters all be dealt with in isolation, as singular items debated singularly and voted singularly. The composition of all of them on the same piece of paper is simply to comply with your mandate to save paper.

I wonder, then, Mr. Speaker, if you would prefer that I wait for a few seconds while the pages finish distributing this material or whether you want me to move right on to the substantive issues.

MR. SPEAKER: Just carry on.

MR. GERMAIN: Thank you. The Members of the Legislative Assembly who enjoyed the evening that we spent together dealing with the Oil and Gas Conservation Amendment Act, 1994, will remember that on April 13, 1994, between the hours of approximately 11 in the evening and 12 in the evening a series of amendments were voted on in second reading, some of which have entrained their way into the concepts that are raised in the first of the reasoned amendments that comes before the Assembly on this occasion.

The first reasoned amendment that we propose, Mr. Speaker, is

that the motion for third reading be amended to read that Bill 5, Oil and Gas Conservation Amendment Act, 1994, be not now read a third time because the Assembly feels that the Bill deals with the rights of farmers and landowners in an unreasonable way.

That is the proposal of this reasoned amendment at this time.

Now, the legislation and the section of the legislation to which this reasoned amendment speaks is found in number 14 of the Oil and Gas Conservation Amendment Act, 1994. Given the importance of this legislation I presume that all members of the Assembly do have their copy of the Bill with them. On page 10 of the copy of the Bill that was distributed in the Legislative Assembly is found the proposed amendment to the Act which is documented as the government's amendment 14. In fact, it speaks to amend section 92.1 of the Oil and Gas Conservation Act.

Now, what is the basis for which the reasoned hoist is advanced this evening? It is the thesis of the Official Opposition of this Legislative Assembly, Mr. Speaker, that the rights of farmers and those landholders, whether by lease or by fee simple interest, have not been properly accorded their due respect in this particular legislation.

I want to, if I might, Mr. Speaker, remind the House that when Neil Diamond was singing in Los Angeles a few years ago, he was singing at the Greek Theatre, and way up on the hill, beyond the place where people pay their admission fee, there's a series of trees. There were people up in all the branches, climbing up into the trees doing two things. Of course, on a beautiful hot August night they were avoiding the payment of the ticket, and they were also . . .

DR. L. TAYLOR: If you keep talking, we'll still be here in August too, Adam.

MR. GERMAIN: If the hon. Member for Cypress-Medicine Hat would relax, I'm sure, Mr. Speaker, I would get to the point of my little anecdote that much quicker.

MR. PASZKOWSKI: There is no point.

MR. GERMAIN: Oh, but there is a point.

MR. PASZKOWSKI: There never is when you're talking.

MR. GERMAIN: There's always a point. I beg to disagree. There's always a point. Mr. Speaker, I'm wearing them down even as I stand here, because earlier it was that I had no point; now it's that rarely there's a point. By the end of the evening it will be that there is always a point.

As Neil Diamond looked over across the crowd and he saw the people hanging in the trees, he said: I'm singing for you folks, too, you tree people. Tonight, Mr. Speaker, when I stand up here, I'm speaking for the farmers of Alberta, and I'm speaking for those farmers of Alberta all across this province as they get ready to plant their crops. I'm speaking for the farmers of the Grande Prairie area where the minister of agriculture comes. I'm speaking for the farmers down in Brooks where the minister from Brooks comes and indeed down in Medicine Hat where the minister from that area comes.

What is the problem with this particular piece of legislation? The problem, Mr. Speaker, is that farmers and their rights are not properly addressed in connection with this Bill. The nature of the Bill is such that entry can be made on a farmer's land with as little as one minute's notice. One minute's notice: is that reasonable? Is that fair for farmers? Is it appropriate that they have no notice whatsoever beyond that "give prior written notice"? Can you imagine the consternation of a farmer who's getting ready to seed his crop for the year this spring and an oil group or a group come in to deal with an abandoned well and they say: "We're entering your land right now. Here is our written notice. We will be back in five minutes"?

Now, what was the suggested solution to this problem? It was to give farmers 30 days' notice. For 30 days' notice we could not persuade the government of this province to reach out to the farming community of this province and say that, yes, it's reasonable to have 30 days' notice – and I know that the Speaker comes from rural Alberta, as well, and I know that you'll think this through – particularly when you could avoid notice completely in those circumstances where it was unreasonable to do so. Should there ever be a circumstance when an abandoned well is being cleaned up where there can't be enough foresight and planning that you would give some notice to the fee simple owner or to the leasehold landowner?

You know, Her Majesty's government, Mr. Speaker, can laugh and chuckle all they want, but the amendments proposed and this reasoned amendment tonight speak out and reach out to farmers to try and balance the interests of the oil industry with the interests of the farm community. Is that so wrong in this particular province? What is wrong with that?

We go further in this particular session, Mr. Speaker, and remember that the thesis I'm trying to advance tonight is that the Act does not fairly balance the rights of farmers, surface holders, and land leaseholders in this legislation. Are there other clues in this particular piece of legislation that indicate that to be the case? Yes, there are. You will appreciate that the board dealing with these particular orders, ordering somebody to go back on the land and ordering them to clean up the land, leaves the farming community in this situation: it leaves the farming community in the situation that there is no protection whatsoever from the damage caused by any of the cleanup crews, no practical protection.

8:10

Now, the government – why, they've protected themselves. They've got a levy, they've got some money, and they have the underlying taxpayers' obligation to clean up the environment when those who destroy the environment and affect the environment will not do so. But what is there for the farmers of this community? What is there for the farmers of the province? All they're stuck with is this. They're stuck with the following order:

A person who enters any land under subsection (1) shall compensate the land owner or occupant for direct expenses and for any damage to his land, crop or livestock arising directly from that entry.

Well, Mr. Speaker, a couple of weeks ago we had tabled in this particular Assembly a report of an official that is administered by the minister of agriculture and that comes under the department of agriculture, and that is the Farmers' Advocate. There is a useful program in the province of Alberta whereby past governments have recognized that farmers do not like to litigate; they do not like to be in court. Now, what we had suggested here in these particular amendments that in turn lead to this reasoned amendment is that maybe if the board was going to order . . . [interjections] I do my best, Mr. Speaker, but only when I find that my tonsils are being strained by voice elevation do I have to look at the member who continues to want to make in this Legislative Assembly a hundred speeches a week, one of them on his feet and 99 of them sitting down there hoping that *Hansard* doesn't pick up his abusive, his inflammatory, and his derogatory statements that impede the progress of good legislation in this province.

Point of Order Imputing Motives

DR. L. TAYLOR: A point of order, Mr. Speaker.

MR. SPEAKER: The hon. Member for Cypress-Medicine Hat rising on a point of order.

DR. L. TAYLOR: Yes, certainly. Imputing motives. I certainly don't intend to do that. He's just imputing motives and making slanderous statements. I would certainly ask you to ask him to withdraw that slander in this House.

MR. SPEAKER: Perhaps the Chair wasn't listening with the amount of diligence that it should have as there was some traffic going on here. The Chair would only ask the hon. member that if he feels that he said something untoward, he will no doubt withdraw it.

MR. GERMAIN: I was, Mr. Speaker, commenting on the hon. member's speaking style, and it would be hard to impute a speaking style as constituting a motive. I recognize your comment about not listening to that point, and I take it from that that you had already grasped my very wonderful point and had already moved on to consider some of my other wonderful points that are coming up. I do accept the concern from the Chair about the commentary.

Debate Continued

MR. GERMAIN: While you were momentarily distracted, Mr. Speaker, by the din of the Assembly, I was commenting, to refresh the Legislative Assembly's memory, on the fact that farmers do not like to litigate. The minister of agriculture recognizes that because he has at some considerable cost to the government of this province the Farmers' Advocate that is intended . . .

Point of Order Admissibility of Amendment

MR. RENNER: A point of order.

MR. SPEAKER: The hon. Member for Medicine Hat is rising on a point of order.

MR. RENNER: Thank you, Mr. Speaker. I rise under *Beauchesne* 578. I've had a chance to read the member's motion, and I really am enjoying his presentation here tonight. He has a way with words that many of us don't experience. But I read *Beauchesne* 578, and I think that this motion that the member is proposing is out of order. *Beauchesne* 578 says, "An amendment proposing a direct negative, though it may be covered up by verbiage, is out of order." I would say that this motion, which reads that the Act "be not now read a third time because the Assembly feels" blah-blah-blah – that's the verbiage, and I think that the motion is out of order.

MR. SPEAKER: The hon. member on the point of order.

MR. GERMAIN: Yes. Thank you, sir. Speaking to the point of order. The verbiage that my colleague from opposite refers to is – and I'm disappointed that he used the phrase blah-blah-blah-blah-blah. The verbiage that he speaks of is in the appropriate reasoned style which has been approved for many months by Parliamentary Counsel. We simply used the Parliamentary Counsel approved verbiage. I would immediately jump to the defence of Parliamentary Counsel, who is not permitted to speak here, and stand up for Parliamentary Counsel doing, as always, a wonderful job.

Now, if what the member meant was that it was a negative connotation – in other words, a complete rejection of the policy

of the Bill – that cannot be the case, Mr. Speaker, because the government in its own Bill speaks of protecting farmers by giving them a cause or right of action. We question only whether the cause or right of action in the protection given is illusory or goes far enough. That can hardly be a negative as it would be if we were simply suggesting that the Bill says "black" and we want it changed to "white," which would be a direct negative. Black and white: get it? The minister has got it. By golly, she's got it.

That's my point on the point of order.

MR. SPEAKER: The Chair would point out that *Beauchesne 578* refers to a motion per se, not a reasoned amendment. Hon. members who wish to become familiar with the rules governing reasoned amendments should look at *Beauchesne* citations 731, 666, and 670. On the basis of those citations, the hon. Member for Fort McMurray may continue on his reasoned amendment.

MR. GERMAIN: Mr. Speaker, you were clearly listening when the chips were down, and I appreciate it very much.

DR. L. TAYLOR: Lawyers stick together.

MR. GERMAIN: I could certainly, Mr. Speaker, jam in here my comment that where you find lawyers, you also find a free and courageous democracy, but I will save that for another time and another forum. I know that the member opposite from Calgary-Shaw agrees with me tremendously on that, and I've noticed that he has now edged closer and more forward in his seat, ready to jump up and speak to this reasoned amendment. [interjection] The Minister of Community Development, too, I'm told, has moved forward in his seat to get ready to jump up and join this debate on this reasoned amendment.

Debate Continued

MR. GERMAIN: So where I was before we got sidetracked with those legal issues and those legal niceties about what constitutes a reasoned amendment is that I was talking about reaching out and protecting farmers who do not want to litigate. Now, you've got to put yourself in the mind and in the mind-set of what this legislation will do. Somebody has been ordered to go into the land and do a cleanup, or a farmer who doesn't want them there has been ordered to allow them to go there. What happens is you get a right to claim for damage. Now, to properly protect the farmers of this community, farmers should have been able to access and take recourse to that fund that the government had set up to cover these types of cleanups in an emergency situation, and the government, with its might and power and awesome collection techniques, could have then gone after the errant perpetrator of the damage to the farmer. But no, the farmer is the only person in this equation not protected. The government is looked after; the government is going to levy a fund on the oil industry. The oil industry is looked after because they're going to pay their fund, and the government is going to have the right to go after individuals who don't pay up. Who isn't looked after is the farmer.

MRS. BLACK: Are you a lawyer?

MR. GERMAIN: Yes, as a matter of fact. Thank you. I appreciate the minister reminding the Assembly that I am a lawyer. I am a lawyer, but you will also appreciate that in that role, Mr. Speaker, I'm able to recognize when the security and the rights given are illusory only. As a result, after the debate has completed itself on this first reasoned amendment, I would

encourage all Members of the Legislative Assembly to vote for this reasoned amendment.

I'm now going to conclude my remarks because I know there are numerous other members on both sides of the Legislative Assembly who are ready to jump up and deal with this particular amendment. Thank you, Mr. Speaker.

8:20

MRS. BLACK: Well, Mr. Speaker, to bring some perspective on this Bill to this Assembly, please. I have just listened to the last 10 or 15 minutes of absolute nonsense, quite frankly. I can't believe that we are at the stage of third reading on this Bill and the hon. member still hasn't got it. This is not a difficult Bill. It's probably one of the most straightforward pieces of legislation that we have brought forward. Simply put, what happens under this amendment is that it enables the industry – the industry – to voluntarily create a fund out of their own money to go in and abandon orphaned wells.

Orphaned wells are wells where there is no owner in existence. They're orphaned.

MR. DAY: What's Orson Welles got to do with this?

MRS. BLACK: Please. They're orphaned wells. This is not a well where you can identify an owner, because the owner has long since gone. This is the social conscience of this industry, to go in and properly abandon orphaned wells. So please keep that in mind. Orphaned wells. This is a voluntary process that this industry has come forward with, to set up a fund to do this. This is not a requirement. This is not their responsibility. They're going in as an industry to participate to abandon orphaned wells.

Mr. Speaker, I have heard this hon. Member for Fort McMurray talk about all sorts of rights. Well, I would think that anyone in rural Alberta would welcome – would welcome – an industry coming in to clean up and go through an abandonment procedure on an orphaned well. It won't cost the farmer anything. It won't cost the taxpayer anything because this fund is being set up by the industry without public funds. This is a voluntary process that is going through.

Mr. Speaker, yes, there is a provision for entry on the land. It's under section 92.1(2), and clearly it says:

A person shall, before entering any land under subsection (1), give prior written notice of his intention to enter to the owner and to the occupant, unless it is impractical under the circumstances to do so.

Prior written notice to go on someone's land to abandon an orphaned well. An orphaned well, Mr. Speaker.

I will clarify it for the hon. member, who is also a lawyer. Please read the Act. Under the first section it says: "may enter on the land concerned for the purpose of carrying out the abandonment order" of orphaned wells. Now, I will be glad to take the hon. member to the field to show him how you abandon a well. They're called orphaned wells, Mr. Speaker, because there is no owner apparent. So, please, let's not confuse the issue.

The hon. member also brought up that the farmer would not have compensation. Well, wrong again. Throughout this process the farmer receives compensation for the surface rental through the Surface Rights Board. So please don't distort the facts. Read the Bill. This is an abandonment order for an orphaned well. It's very straightforward. I'm just shocked that this hon. member cannot read this Act. It's very clear, so please don't mix this up with something that isn't there. It is a voluntary process that this industry should be applauded for putting together, to go back and go through this abandonment process in orphaned wells.

I would suggest, Mr. Speaker, that all hon. members reject this amendment.

MR. SPEAKER: The hon. Member for Edmonton-Norwood.

MR. BENIUK: Yes, Mr. Speaker. I believe my colleague would like to introduce someone, so I will yield to him, but I would like to speak to this right after he makes his introduction. Okay? [interjections]

MR. SPEAKER: Order please. The Chair would remind the hon. member that hon. members can't make appointments to speak. They either speak or they don't speak, and the hon. member has the opportunity of speaking now.

MR. BENIUK: I thank you, Mr. Speaker. I rise with great pleasure to speak on this most historic Bill, historic because it will change the political climate in this province. What we find here is that the members of the Liberal caucus – the members from Edmonton, Calgary, Fort McMurray, Lethbridge, Fort Saskatchewan – representing urban ridings, are coming to the defence of the farmers and the ranchers of this province.

MR. SPEAKER: Order. Order please. The Chair regrets interrupting the hon. member, but a request has been made to revert to introductions. Is there unanimous consent?

HON. MEMBERS: Agreed.

MR. SPEAKER: Opposed?

The hon. Opposition House Leader.

head: **Introduction of Guests**

MR. MITCHELL: Thank you, Mr. Speaker, and I thank my colleague from Edmonton-Norwood for relinquishing the floor for a brief moment. It's my pleasure to introduce to you and through you to the Members of the Legislative Assembly four scouts, one scout leader, and it looks like a parent assistant, who are in the gallery tonight. They are from the 145 Rio Terrace scout group in the constituency of Edmonton-McClung. I would ask that they stand in the gallery and receive the welcome of the Members of the Legislative Assembly.

head: **Government Bills and Orders**
head: **Third Reading**

Bill 5
Oil and Gas Conservation Amendment Act, 1994
(continued)

MR. SPEAKER: The hon. Member for Edmonton-Norwood.

MR. BENIUK: I thank you, Mr. Speaker. As I was saying, it is the urban Liberal caucus that is rising to the defence of the ranchers and the farmers of this province while the rural Conservative members are allowing legislation to come forth and be passed in this House that will have a major negative impact on the farming and ranching community. The amendment presented by my colleague from the urban riding of Fort McMurray feels that this Bill deals with the rights of farmers and landowners in an unreasonable way. That is very accurate, for while oil companies normally have to negotiate with a farmer and a rancher to enter their lands, here the power of the state allows someone to enter that property without compensation being determined in advance to do work on the land which could have a major negative impact.

This legislation is bad in principle. There is no compensation guaranteed. The farmer, the rancher cannot rely on the colleagues opposite that he elected; he has to depend on the Liberals in this Legislature to make sure that there are provisions here that there is compensation to the farmer and rancher that is adequate. This does not exist in 92.1(1), 92.1(2), 92.1(3) or (4) or (5), none of them. There is no guarantee. It says that notice will be given to the farmer. But, Mr. Speaker, a person can enter your land and give you notice and do a great deal of damage. If you are a farmer or a rancher, you then have to incur a great deal of costs going to the Surface Rights Board. This is totally unacceptable, and we on this side of the House feel very, very strongly attached to what the farmers and the ranchers are going to be inflicted with, and we strongly oppose this on principle. I compliment my colleague from Fort McMurray, an urban riding, for coming to the defence of the farmers and ranchers.

Point of Order
Abusive Language

MR. JACQUES: A point of order, Mr. Speaker.

MR. SPEAKER: The hon. Member for Grande Prairie-Wapiti, rising on a point of order.

MR. JACQUES: Standing Order 23(j), Mr. Speaker. Quote: "uses abusive or insulting language of a nature likely to create disorder." When this member stands, rises in this Assembly and speaks about farmers the way he does, with absolute ignorance of the subject he refers to, that is insulting language. It's insulting to this House, and more particularly it's insulting to the farmers and the ranchers of this province.

8:30

MR. BENIUK: Mr. Speaker, my parents, my brothers have farmed in this province for a long time. I am fully aware of the problems that farmers have. My roots go back here to the turn of the century. They are in the land of this province. So when that member makes that statement, it is absurd and nothing more than an attempt to create disorder in this House. I'm insulted, but, then, coming from members opposite, all I can say is that the virus being spread by Cypress-Medicine Hat is infecting the entire Tory caucus.

May I continue, Mr. Speaker?

Point of Order
Imputing Motives

MR. SPEAKER: Order. The hon. member for Cypress-Medicine Hat is rising on a point of order.

DR. L. TAYLOR: A point of order, Mr. Speaker: 23(i), imputing motives. The member opposite certainly doesn't know what he's talking about, as usual. It's just blithering. That's all one can call it, straight blithering. So I would ask that he desist from his comments.

MR. SPEAKER: Order please. In case members were wondering about whether there was a point of order on a point of order, there was not, because the Chair did not really feel that the hon. Member for Grande Prairie-Wapiti had a valid point of order in the first place. Therefore, the hon. Member for Edmonton-Norwood doesn't have to continue on that.

As far as the hon. Member for Cypress-Medicine Hat's point of order is concerned, the Chair feels that there is a question for debate here whether hon. members feel it is important or not

important. When it ceases to become a debate, the Chair will intervene, but so far the Chair feels that there is a debate going on with respect to an amendment to third reading of Bill 5.

The hon. Member for Edmonton-Norwood.

Debate Continued

MR. BENIUK: Thank you, Mr. Speaker. This is a very important amendment. The farmers, the ranchers in this province depend on, look toward this Legislature to make sure that whatever laws are passed are fair to them. This is not fair. It gives the power to the oil industry to move onto the land backed by the full power of the state. The farmers already are having problems, as I believe the hon. Minister of Energy will confirm. There are problems negotiating rights of the oil companies coming onto the land of the farmers and back and forth. I believe you have a board to resolve these problems. Because you have a board, obviously you already have conflicts that are being resolved through the Surface Rights Board.

Now, this Bill allows oil companies or their agents to go onto the land without agreeing to compensation ahead of time. Compensation will be determined afterward. I can only assume that companies will just go to the farmer, give written notice, and enter the land. There is no provision here that they will negotiate what they will pay for whatever damage. To say the direct costs – what is a direct cost? I would ask the minister to define the word "direct." What is a direct cost when you're taking an orphaned well, to use the minister's words, or abandoned well, to resolve the problem?

Mr. Speaker, the greatest concern is the fact – and I cannot stress this too strongly – that there is no provision here for a level playing field between the farmers, the ranchers, and on the other side the oil companies with the full power of the state behind them, backed by this legislation. I am finding it unbelievable, totally unbelievable that the rural members on the Conservative side are so silent when it comes to defending the interests of the farmers and ranchers of this province. It is up to the Liberal side, the urban members – Edmonton, Calgary, Fort McMurray, Lethbridge, as I mentioned, and Fort Saskatchewan – to come to their defence. I do believe this Bill will be a watershed. We can point to this legislation, to every corner of this province, and we'll see what the farmers and the ranchers think of the type of representation they have had from the members they elected in the rural ridings.

MR. SPEAKER: The hon. Minister of Agriculture, Food and Rural Development.

MR. PASZKOWSKI: Thank you, Mr. Speaker. Certainly we've hit an all-time low in this House as far as debate is concerned. I don't think we've ever had a debate by people who have absolutely no knowledge of what they're discussing such as we're having here tonight. What we're trying to do here is help the farmers and help the agricultural community, and it's unfortunate that we have people coming forward who have a brother who is a farmer. I have relations as doctors, but that doesn't make me an expert in the health field, and that's certainly evident here tonight.

The whole purpose of this Bill – and it's a very simple Bill – is to allow for the cleanup of an oil well on a farmer's piece of property. Mr. Speaker, this is a nonrenewable resource. Sooner or later every oil well that we have in the province is going to have to be cleaned up. We know that. So we have to put a process in that's going to allow this to happen. The proper way

to do this is to allow the oil companies themselves, the industry itself, to do this, and this is exactly what the hon. minister is bringing forward.

It's a tragedy when we have people standing up who claim themselves to be knowledgeable lawyers interpreting something in this manner. Indeed it's almost disgraceful to this House, to the content of the Bill to hear the debate that's coming forward here tonight. All this Bill is bringing forward is to allow for the oil well to be put down in an environmentally safe manner.

One hon. member mentioned that there's a tremendous cost to go to the Surface Rights Board to clean up the surface. There is no cost. We assume that cost as the department of agriculture. The taxpayer picks up that cost. Here we have these hon. members, Mr. Speaker, telling us that indeed the industry shouldn't do it; the farmers should do it themselves.

MRS. HEWES: Oh, no.

MR. PASZKOWSKI: Oh, yes, that's true, because indeed the Bill is suggesting that the industry should clean it up, and what you, hon. members, are debating, are saying is: no, allow the taxpayer to clean this up. It's a tragedy, because indeed if there is an orphaned well, if there is no one else to look after . . .

Point of Order Allegations against a Member

MR. SPEAKER: The hon. Member for Edmonton-Norwood is rising on a point of order.

MR. BENIUK: Standing Orders 23(h), (i), (j). The hon. minister of agriculture is putting words into my mouth which I never said. [interjections]

MR. SPEAKER: Order please. The Chair did not hear the hon. minister put words in any particular member's mouth. The hon. minister was referring to many members on the opposition side, and that is not the subject of a point of order.

Debate Continued

MR. PASZKOWSKI: As far as the cleanup of the surface is concerned, that's what the Surface Rights Act allows to be done, and indeed we as taxpayers are picking up that cost. There is no cost to the farmer. This Bill will indeed benefit the agricultural community. There is absolutely no reason, Mr. Speaker, why the taxpayers should pay for this. The industry should pay for the cleanup. That's all this Bill asks for, and that's all this Bill will permit.

MR. SPEAKER: The hon. Member for Calgary-Buffalo.

MR. DICKSON: Thank you very much, Mr. Speaker. It seems that in the last few minutes members have completely lost sight of what the amendment is all about. I have to address what is to me a startling proposition. If I understand it correctly, first from the Minister of Energy and now from the minister of agriculture, if I'm not a farmer, it doesn't matter how many Albertans voted for me; I have to sit here mute and let the experts talk about that. Because I'm a family lawyer, when it comes time to talk about family law matters, I stand up and expect that other members who haven't practised in that area would sit mute and listen respectfully while I explain the truth as I see it. Now, that's the startling proposition that I hear from the distinguished members of cabinet.

8:40

Surely, members, any one of the 83 people in this Chamber can stand up and speak in terms of concerns they have. I suggest to hon. members through you, Mr. Speaker, that if there's misunderstanding, this is the time to address it in this Chamber. I want no member in this Assembly ever to feel constrained about standing up to speak on any legislative initiative that's brought in front of this House because he or she is not an expert. I think if we ever get to that point, then what we'll have is that the farmers will elect an MLA or a series of MLAs, we'll have dentists elect a certain number of MLAs, and we'll sit here with a group of special interests banging heads. If we think that's going to advantage Albertans, well, we'll quickly see what happens. So let's be very clear about that. Any member on either side of this Chamber – and I address this specifically to the minister of agriculture through you, sir – should feel free and unencumbered to stand up and speak to concerns or questions now or at any other stage on this Bill or indeed any other Bill.

Mr. Speaker, I've had some experience with the Surface Rights Board, but I'm not calling myself an expert. I'm not holding myself out as somebody that has some special knowledge. I do have an interest as a legislator. I have a responsibility to make sure that every piece of legislation that comes out of this Chamber makes sense, is something I can defend to my constituents, to oil companies, to farmers, wherever I go in this province, not just lawyers or people that would happen to be part of my professional background.

Now, I think that when the hon. Minister of Energy stood up and made her gratuitous and condescending observations about people who didn't understand . . .

Point of Order Imputing Motives

MRS. BLACK: Point of order, Mr. Speaker.

MR. SPEAKER: Order. The hon. Minister of Energy is rising on a point of order.

MRS. BLACK: Mr. Speaker, Standing Order 23(i). I dealt with Bill 5 on March 28, March 21, April 13, April 12, and March 29, and the same concept of the Bill has been presented in all cases: that this is in fact dealing with orphaned wells. If it sounds condescending, it is not intended to. I have explained that on all of those occasions through the debate on this Bill.

MR. SPEAKER: The Chair does not believe that "gratuitous" or "condescending" are really unparliamentary words.

The hon. Member for Calgary-*Buffalo*.

Debate Continued

MR. DICKSON: Thank you, Mr. Speaker. In fact what I was intending to say is that I think the hon. minister quite misapprehends the amendment and the purpose of the amendment. The minister of agriculture still seems concerned about members on this side standing up and voicing concerns, but I'll persist because I think what I . . . [interjections] Mr. Speaker, I'm going to persist despite efforts by members opposite to get involved in a debate without taking the floor and being recognized by you, sir.

The concern here is that in Bill 5, and indeed virtually any piece of legislation that we ever deal with, what we're talking about is competing interests. You know, it's fine for someone to say, "This is a simple piece of legislation." Well, simple from whose perspective? You know, it's a curious thing to me. The

Member for Calgary-*Montrose* – this would have been in the fall session, members will recall – wanted to create a constitutional right, a particular right, a right of property. If members will reflect back on that discussion, there was concern specifically about landowners in this province being disadvantaged because certain rights that they had to own property, to enjoy property could be encroached upon, could be eroded, could be undermined. So what we're dealing with now is in fact something which encroaches on the right of a property owner. Members may take different views in terms of whether it's a justified encroachment, whether it's a limited encroachment, but Mr. Speaker, by gosh, it is an encroachment. So right off the bat this so-called simple Bill, that the Minister of Energy would suggest is nothing for members to ask questions about, addresses the right of ownership that any property owner has in this province, at least a property owner of land on which there would be a well, orphaned or otherwise.

Now, what happens is that I think members and certainly ministers sometimes develop a kind of myopia, which means that they can see what they want to achieve and then it's a question of moving to the end point in terms of enacting the legislation as quickly as possible. I just encourage the minister to recognize and respect the fact that there are competing interests here. Property owners have a competing interest. Let me give you an example, Mr. Minister. Section 14, in fact, talks about cleanup costs, yes, that are provided for, but I encourage all members to look at subsection (4) of the new 92.1. It's provision for compensating "the land owner or occupant for direct expenses" and for damaged land. Well, Mr. Speaker, you will appreciate that there is a whole area of loss which is sometimes compensable. You appreciate in the courts that there are all kinds of indirect costs which are compensable heads of damage. Let's be clear. Section 14 doesn't deal with indirect costs. It doesn't deal with loss of opportunity. It doesn't deal with loss of profit. It doesn't deal with profit à prendre. It doesn't deal with a whole series of compensable claims that would be available to somebody in a civil action. Now, maybe, hon. minister, through the Speaker, we decide that what's at stake here is so important that we're not going to give property owners that particular right, but surely that's fair issue for debate.

All that had been proposed here is that there be a reasonable notice period to a property owner. This doesn't require a definition, Mr. Minister, through you, sir, of what an orphaned well is or an abandoned well. This doesn't require a description in terms of how important the oil and gas industry is. All it requires is an understanding that property owners have rights and that this compromises some of those rights. Just before somebody stands up and argues that the Surface Rights Board looks after that, subsection (5) cannot give jurisdiction broader than subsection (4). All you do is you go to the Surface Rights Board. That's the vehicle to determine compensation, but the compensation can only be fixed within the four corners of section 92.1(4), which clearly says only "direct" costs.

Anybody who thinks that farmers aren't prejudiced by this, I respectfully submit to you right now that you'd better go back and look at subsection (4). You'd better get a legal opinion, if you don't trust the lawyers in this Chamber, before anybody goes out and starts talking to farmers and saying: "No problems. No prejudice to you." Check the facts, because the facts are that there is prejudice to farmers. While there may have been hoots of derision when some of my colleagues stood to raise the concern, a legitimate concern, on behalf of landowners, it will be clear in *Hansard*, when people find out exactly what subsection (4) limits, what it precludes, what it forecloses, that there were some members in this Chamber who recognized that interest that property owners have and recognized that there's a balance. This

may not achieve it, and it requires an opportunity for those farmers, those property owners to be involved.

8:50

I think if one looks at subsection (4), it's of interest to me that it talks only about "direct expenses." I'm disappointed that the minister, who is so quick to get on her feet and attempt to belittle efforts by members to protect the interests of property owners, doesn't tell us why she and her advisors, in drafting this particular piece of legislation, didn't want to cover indirect costs. Why would we deny that to farmers, who would have a range of remedies otherwise available to them? Maybe there's an explanation. [interjection] Well, with respect, Mr. Speaker, I haven't heard. Now, maybe the minister offered an explanation when I wasn't listening, but I've not heard an explanation in terms of why indirect costs are not covered in subsection (4). If there's an explanation for it, I hope that some member on the government side will share that with us. Maybe that will allay our concerns, and we can move on and deal with other parts of the Bill. But until that's addressed – and I'm talking consequential damage, indirect costs – it's not only legitimate, but I think members are duty bound to ask the question, to adopt the solution proposed by the hon. Member for Fort McMurray. Give this a period of time to allow that part of the Alberta community to weigh in with their views, and then perhaps when we come back, we can deal with the merits of it and get away from the hyperbole, get away from the bombast, and start trying to do a job for farmers and landowners in this province.

Thank you, Mr. Speaker.

MR. SMITH: Mr. Speaker, it gives me great, great pleasure to rise. Basically I'd like to spell obstructionism L-i-b-e-r-a-l a-m-e-n-d-m-e-n-t, because in fact that's the appellation. Obstructionism is in the form of a party opposite amendment.

There's absolutely no question that this group that governs has consulted with the stakeholders. They've talked to the oil industry. They've talked to the agriculture industry. We've had both ministers indicate the level of representation that's taken place. In fact, what we're talking about, Mr. Speaker, is something that works for everybody involved in the oil industry.

Now, I'm not very smart about parliamentary affairs and, gosh, all this great debate and oratory. You know, these guys are just such better talkers than I am. But what I've had is this rare privilege of being able to actually see an abandoned well, being able to talk on one. You know, if you walk out there and it's a bright, clear day – and it may not be around that glorious area of Fort McMurray. In fact, you wouldn't find an abandoned well in Calgary-Buffalo. But if you go out into the areas of rural Alberta, you'll find an abandoned well. In fact, they know it's abandoned. The farmer knows that it's been abandoned. Every merchant in town knows that it's been abandoned. The gravel that's been put on the road leading up to the wellhead has long since been graded away. Maybe it's been deposited in some farmyard somewhere, but it's found a better use. All the equipment has been stripped. All the tubing has been pulled. In fact, you have something that may present a potential danger to the great public at large. You will not find all this wholesome rhetoric that we've heard from across this side about farmers saying, "Ah, I'm" – I don't know; what's the term? – "righteously indignant about this." They're going to say: "Heck, no. We came by, ploughed off the gravel, sold the crop across it. Nobody's wandered into it for two years. Hope you guys fix that so we can get on with the whole quarter section." In fact, that's all we're talking about.

Unfortunately, the party opposite, that's been insensitive to both the needs of the biggest industry in Alberta and the most important industry in Alberta in the agricultural domain, has in fact shown no knowledge of either industry. No knowledge of either industry. It's very interesting. We have this great representation. In fact, these guys haven't been there. They haven't talked to the oil patch. They haven't talked to the farmer. They're just here trying to get us through 11 o'clock or 12 o'clock or 1 o'clock in the morning.

In fact, we've been able to take this process through and determine what an abandoned well is, how many abandoned wells are out there, and what we can do to fix them. We've been able to take this, and through consultation with stakeholders – I hate that word "stakeholders." Beef-holders and oil-holders, Mr. Speaker: that's what we've got here. We've taken that group and we've helped facilitate a process that's led us to a solution that works for everybody. I can stand here as a person with just a little bit of knowledge about the oil patch but knowing that I can speak with the rural representatives over on this side of the House who have in fact been there and know that something has to be done about this. But, gosh, something's done at the field level long before it gets to this august House, long before it's subject to this obstructionism. It gets fixed in a normal business course out there, and I think that's really what we want to reflect upon.

You know, when you take a look at the Bill, part 11.1 says:

Where payment is made from the abandonment fund, the Board may pursue all remedies provided in this Act for reimbursement of the abandonment fund.

That's really what started all this kind of stuff. But, gosh, Mr. Speaker, if nobody owns that well and it has been defined as an orphaned well, where are you going to get the money from? What you do is create this fund that recognizes that orphans will exist. Just like in this House of 83, the oil patch, and all the farm community representatives, there's always a couple of bad apples in the barrel. So how do we put the hoops around the barrel to make sure the barrel remains intact? That's exactly what we want to do with the abandonment fund. That's exactly why we need to define this.

Quite frankly, it's clear that we need to get the legislation through. It's clear that we've been subject to obstructionism which has led to catcalls on both sides and a real misunderstanding of the real intent. So if I can be so bold as to just move the question, let's get on with this, and let's solve the problem, not for this House, Mr. Speaker, but for all Albertans who are in this business and need to have it resolved so we can go forward to build both the agriculture industry and the petroleum industry.

Thank you, Mr. Speaker.

MR. SPEAKER: The hon. Member for Clover Bar-Fort Saskatchewan.

MRS. ABDURAHMAN: Thank you, Mr. Speaker. I think the one thing that I have certainly recognized this evening is that there is not a clear understanding that when you indeed bring forward a Bill, the democratic rights . . . [interjections] Mr. Speaker, I'd certainly appreciate it if I could ask this hon. member to my right to cease being my sidekick continually when I get up to speak. [interjections]

MR. SPEAKER: Order. [interjections] Order. Perhaps we could make a new beginning for the hon. Member for Clover Bar-Fort Saskatchewan.

MRS. ABDURAHMAN: Thank you, Mr. Speaker. For it to be suggested that we should indeed expedite a Bill that does not serve all Albertans positively does democracy a disservice. I would suggest that anyone read 92.1(5).

If a dispute arises as to the compensation payable pursuant to subsection (4), the compensation is to be determined by the Surface Rights Board.

If you look at subsection (4), as my hon. colleague from Calgary-Buffalo has clearly stated, there's nothing that addresses the indirect costs that could be related to the farmer. I should also point out that two of my constituents at the present time have come to me for assistance to have their own rights protected when it came to the Surface Rights Board when in fact their land has become contaminated.

9:00

The interesting thing, Mr. Speaker, is that when you go to put your case before the Surface Rights Board, if you really want to make a strong case, you don't do it for zero dollars. Indeed, you usually are looking at hiring a lawyer. For it to be suggested by government members that indeed this is serving the farming or the agricultural community in a positive way does a disservice, because their rights are not categorically protected within this Bill.

The other irony that I've heard from the government side is to suggest that if you're not living on a farm and farming in the province of Alberta, you've got no right to stand up and defend the rights of farmers. Well, I would like to put it to this government that I just heard that they're saying that health care professionals have no right to be on the regional health care boards. Make up your mind. If you've got to be a farmer to stand up here and speak on Bill 5, then maybe we should have all health care professionals a part of the regional health authorities.

The one thing in a democracy, particularly if you're a property owner, is that indeed your home is your castle, and the rights of owners should be paramount in all cases unless you're dealing with a disaster. I would suggest that this reasoned amendment is most appropriate, because I cannot believe that it was the intent of the government of Alberta not to ensure through Bill 5 that the rights of farmers are indeed protected when the orphaned wells are being put in an environmentally sound position. No one disputes that. What we clearly do dispute is that once they enter that land, they should only do it at the permission of the owner, and anything that happens on that land that inconveniences a farmer, whether it interferes with the profit margin, whether it interferes with restoration of that land in a way that inconveniences him or does not restore it the way it should have been, that farmer should be compensated with no cost attached to him or her. That's all this reasoned amendment is asking for. And for people on the government side to continually say that we're debating this for the sake of debating it and that this isn't a reasonable amendment, to my mind once again we're seeing the democratic process threatened by this government.

[Mr. Deputy Speaker in the Chair]

So, Mr. Speaker, if there's a government member who can tell Albertans that section 92.1(4) and (5) does not undermine the democratic rights of landowners in rural Alberta where there are orphaned wells, I would say they do not understand this piece of legislation. I firmly believe that this should be amended to ensure that the rights of farmers are protected and that when the orphaned wells are cleaned up, there is no indirect cost that goes back to the farmer. It wouldn't take too much for a member of the legal profession within the government of Alberta to bring forward the appropriate amendments to ensure that. We know the

appeal processes under other Bills cost people to appear before these appeal boards, and to suggest that there's no cost to the farmer appearing before the Surface Rights Board does the agricultural community a disservice.

Thank you, Mr. Speaker.

MRS. McCLELLAN: Mr. Speaker, I just want to make a few comments on Bill 5, and particularly I'm speaking to the amendment. Many hon. members have spoken, and some members from the opposite side have spoken with some indignation about some of the feelings of hon. members on the government side. In particular, the last speaker on this Bill perhaps didn't read the amendment, because the concern of the amendment is not to amend the Bill but is to not read the Bill for a third time. Now, had the hon. member brought forward a reasoned amendment to a certain section of this Bill, I may be less concerned.

Mr. Speaker, I would like to comment on the issue of orphaned wells and on abandonment of them from the perspective of the people who are directly affected. This has been a concern for some time for rural residents, and I believe the minister has worked with the stakeholder groups to ensure that we could solve this problem. I would remind hon. members that there is a safety concern with abandoned wells or with orphaned wells that have not been subject to a proper reclamation, and I think it's imperative that we move forward. Previous to the introduction of this Bill the responsibility for those wells lay directly with the taxpayers of this province. I think we should commend the energy industry for coming forward and accepting responsibility on behalf of their industry to address the abandonment.

Mr. Speaker, if the hon. members are familiar with contracts on leases, which is what a person enters into when they have an oil or gas well on their property, they would understand that you in fact give up your rights on a particular amount of land for the period of time when that well is there. I would say that the energy industry and the rural communities enjoy a fairly cordial relationship. However, when there is no owner, when that well is orphaned, it does cause a great deal of I would say inconvenience to the farmer. Certainly when you contract a lease with an energy company, you deal with all of the related costs, your loss of opportunity, all of the things that the hon. Member for Calgary-Buffalo spoke of. Certainly under section (4), where a person who enters to complete an abandonment is compensated for direct expenses and for damage to his land, crop, or livestock resulting from that entry, I find that quite in order. Also, section (5) gives an appeal process that is available.

I think the minister of agriculture clearly laid out the problem as it has existed for some time and the concern that the rural community has had with this. Again I have to say that this member certainly commends the energy industry for accepting their responsibility in setting up a fund to protect those. I cannot understand hon. members requesting that the government continue to be responsible for these wells for an extended period of time. I have to say, Mr. Speaker, that I find this a very progressive piece of legislation, one that certainly the rural communities have asked for for some time. Again I would just remind the hon. members that the Surface Rights Board is in place. You do work with the Surface Rights Board at no cost to the individual; they are there for that reason. I'd also remind hon. members that there is a safety concern with orphaned wells when there is no ownership, no person looking after them. I think that if the hon. members took the time to visit with a cross section of landowners who have had that experience, they would understand their concerns with the lack of opportunity to have abandonment completed on those wells.

So, Mr. Speaker, I would ask the hon. members to consider that this indeed is a Bill that is good for rural Alberta and good for landowners who have the unfortunate experience of having orphaned wells on their property. I would ask them to reconsider their amendment and ask that they would support this Bill, which is very, very positive for our rural community to get on with the issue of dealing with orphaned wells and an orderly method of abandonment of those wells that is supported by the energy industry rather than the taxpayers of this province.

Thank you.

9:10

MR. DEPUTY SPEAKER: The hon. Member for Calgary-West.

MR. DALLA-LONGA: Thank you, Mr. Speaker. I guess that in going back and forth a few things got off track here, but it's encouraging to see that the Minister of Health feels compelled to get up and speak to an oil and gas Bill. And I don't think we're here saying that she doesn't know anything about oil and gas. That was part of our point.

MRS. McCLELLAN: Well, I would think I've probably lived with a lot more of it out in my country than you ever did.

MR. DALLA-LONGA: The Minister of Health says that she's probably lived with wells more than I have. I don't purport to be an industry expert, Mr. Speaker, but I worked for the Energy Resources Conservation Board. I've inspected on behalf of the board somewhere in the neighbourhood of 2,000 or 2,500 wells, and some of them were in the area of . . .

AN HON. MEMBER: Did you ever get in the truck?

MR. DALLA-LONGA: Absolutely.

Some of them were in the area of the hon. minister's constituency. Further, Mr. Speaker, the legislation which sort of should I say forced or encouraged this legislation to come forth was as a result of a case called Northern Badger and Vennard Johannesen. I was an officer of Vennard Johannesen, so I was sued by the government for the costs. Once again, my involvement in that lawsuit was somewhat indirect. At times I was worried about having to be on the hook for paying those costs, but I did get some exposure to abandonment costs. Fortunately we had an indemnity from the bank, and fortunately, as I recall, we also won the case and the appeal.

But, you know, that's neither here nor there. It doesn't make me an expert in the oil and gas business, and because all these wells are out in the country doesn't make me a farmer. The point of the matter is and that we're trying to make here, Mr. Speaker – one of the points that we're trying to get out is: what's wrong with saying a 30-day period of notice? Yes, there's a written notice, but there are written notices in other parts of the Oil and Gas Conservation Act. Just briefly flipping through here, I was able to find in one or two instances where they talk about a 30-day notice. Now, why do they talk about it in here, yet we don't talk about it in this piece of legislation here? That's one of our points. It's quite simple.

Now, this business about orphaned wells. This is about orphaned wells. Well, with all due respect, not once – and I kept flipping through here – not once are orphaned wells mentioned in this piece of legislation. Not once are orphaned wells mentioned in the Oil and Gas Conservation Act. Now, with all due respect, I think I know what the purpose of the Bill is. Yes, we think we know what the purpose of the Bill is, but like the Northern Badger

case where we got sued as well, it didn't matter what the purpose of the legislation was or what the purpose was back then; they came after everybody. When something happens, with this legislation, as I said once before in this House, it has to be in clear, unmistakable language. Otherwise, the circumstances of the day will get some unscrupulous lawyer, as unscrupulous as they can be, to jump forth and try to sue everybody in sight, try to twist the legislation around. They don't care what was discussed in this House and that the intent was to help the farmers. They don't care what we thought at the time. They're going to read the words for what they say, and if there are any words missing that should have been in there, if there's anything that should have required further explanation, it's not going to matter. They're going to take only what's in that Bill. It may seem picky – okay? – to the members opposite, because we're all good old boys, you know, and we're all friends and we want to help out the poor farmer, but it's not going to matter when you get into a court. I've been there. Many of the members opposite have been there. I can't understand why there's such a . . .

Now, getting back to this orphaned well thing. Orphaned wells are wells for which you can no longer find an owner, no longer know who the owner is. Well, I find that comment somewhat confusing. Why do we spend all the rest of the time in here talking about going after the security of the other assets of the orphaned well or the abandoned well owner? We talk about putting a lien on the remaining wells or shutting down the rest of their producing wells. The point I'm making here is that it's just not as clear as I think, it's not as simple a Bill. First of all, that Bill has to be read in conjunction with the Oil and Gas Conservation Act. It has to be read in conjunction with this Act. You can't just read this thing by itself, as I often try to do and can't make any sense out of it.

Now, I'd like to bring this amendment back to a positive note for both sides. Our intention was not to delay, Mr. Speaker. Our intention was to bring forth . . . [interjections] Just hear me out. Hear me out. Our intention was to bring forth an amendment. I've discussed this with farmers. I've discussed the subsequent amendment with oil companies, with financial institutions. I've got names of people who support these amendments; okay?

Now, Mr. Speaker, we're going to go ahead. There's going to be one more speaker after myself, and then we're going to call this thing for a vote. I'll repeat: our intention was solely to bring this thing to the attention of the members opposite one more time, and if they want to vote against it, let them stand up and be counted.

Thank you, Mr. Speaker.

MR. DEPUTY SPEAKER: The hon. Member for Edmonton-Strathcona.

MR. ZARIWNY: Thank you, Mr. Speaker. I'll be very brief in my notes on this amendment, but before I go into the statement why this amendment should be supported, I'd like to say that we don't disagree with the closure of abandoned wells. I'd also like to say to the minister and to the minister of agriculture that I'm a former deputy minister of energy, mines, and resources. A major area of my law is oil and gas law, and I worked in the minister's department for eight months, both in the policy division and in the law division. So I have some experience in the area.

One of the first things lawyers learn when they take oil and gas law is that the oil and gas laws of Texas greatly influenced the laws of Alberta. Now, from the laws dealing with royalties, production, allocation unit agreements to oil and gas leases, which deal with almost every conceivable and potential problem that has been encountered in the oil and gas industry and enshrined in the

oil and gas leases, we've learned from Texas. We have in Alberta taken the lead, however, in defining the terms of units, what can and can't be drilled. We have taken the lead in defining capped wells, to regulation, to all matters of lateral drilling, horizontal drilling, seismic testing, and defining oil and gas pools. I think the minister will agree that the laws of Alberta in the area of oil and gas have surpassed, at least in some areas, the oil and gas laws of Texas. Where once there was a Texas oil and gas lease, there is now an Esso gas lease, there is a Shell gas lease, and there's a Canadian model of an oil and gas lease developed right here in Alberta.

9:20

Now, one of the areas where I believe the laws of Texas have not been surpassed is in dealing with landholders, farmers. Firstly, the government of Alberta – and I know this is not an issue here, but it should be stated – took the rights away from farmers to own oil and gas. In Texas they never did.

The other area where Texas has surpassed our laws is in respect of the law and proprietary rights of farmers. Texas gives its farmers and landowners sufficient notice when they want to enter their land. Saskatchewan, incidentally, gives sufficient notice. Ontario gives sufficient notice. Sufficient notice here is a time element, not just a notice.

Now, with Bill 5 the relationship between the farmer and the government I believe has reached a new low, and I would suggest that entry to the farmer's land without proper written notice is very close to temporary expropriation. The government of Alberta leaves the farmer unprotected when minimum notice is not given with time. If I'm entering your land, and I give you notice that I'm entering, then I also want a time as an owner of when you're going to be there. The reasoned amendment stops, in my estimation, the temporary termination of the farmer's rights. What we're saying, then, is: why not simply give the farmer adequate time notice? A written notice with time is required to protect and recognize the rights of the farmers. A notice that entry on a farmer's land is pending, what Bill 5 proposes, is not sufficient notice. A notice with time is adequate notice. Consequently, I would ask the members on the other side to support my colleague's amendment.

Thank you.

MR. DEPUTY SPEAKER: The hon. Member for Edmonton-Roper.

MR. CHADI: Thank you very much, Mr. Speaker. I'm all for making the best possible Bill that we can, and let's do it in the Legislative Assembly here tonight. I know we can do it if we try.

Many times we have looked at these Bills and read these different Bills and we have said to ourselves: why is it that we cannot introduce these amendments and debate them and make sure that if they are reasonable amendments let us put them and entrench them in this Bill? Why is it that every single time one of these Bills comes forward, they are like they are written in stone, Mr. Speaker? Why is that? Why is it that when you see something like this discussion that we're listening to today about the orphaned well, the minister gets up and says: well, I want to make it clear one more time; it is an orphaned well, a well that we cannot locate the owner? Well, if you cannot locate the owner, then it's reasonable and commendable on behalf of the industry to come in and put together a fund to reclaim that orphaned well. But why is it that in the Bill itself, then, we can say under section 93.1(1)(a)

"debtor" includes any person who fails to pay well abandonment costs, an abandonment fund levy or an administration fee or otherwise?

Mr. Speaker, it clearly states here that someone, whoever is the landowner at the time – that's the way I interpret this – would be responsible for paying the reclamation costs. Now, if that isn't the case, then somebody has to advise me that that's not the case. It says clearly in subsection (3) of 93.1 that "a lien under this section shall be first and prior to any other lien, charge," et cetera. If that's not the case, then why is it that we have legislation within this Bill that would enable the industry to step in and put a lien on that property?

This motion – and I'm pleased to be able to speak to this motion – says clearly that we

not now read a third time because the Assembly feels that the Bill deals with the rights of farmers and landowners in an unreasonable way.

Mostly certainly, Mr. Speaker.

Calgary-Varsity got up and was saying that everyone knows that there's an abandoned well there. He said that the preacher knows it and the neighbour knows it and the farmer knows it and the storekeeper knows it, everybody in the community knows it. Let's assume, for example, that somebody comes along and picks up a piece of property not knowing. An unsuspecting purchaser picks up a piece of property and then finds out later that there's a well. The storekeeper comes along and tells him about it a little bit later on. He says, "Hey, did you know there was an old abandoned well there?" Well, Mr. Speaker, there's no way of knowing because there isn't a caveat on the title. There isn't a process in place that would allow somebody to identify whether or not there is a liability like that on their property. It wasn't so long ago that the Alberta Real Estate Association was going around – and you guys all know that; everybody in the Assembly knows that – trying to identify those contaminated sites, and this is nothing more than that. They said that they ought to have caveats put on those properties so that we can all identify them, so that, no, there won't be any unsuspecting purchasers, purchasers that are buying a piece of property where there may be cleanup costs attached.

Well, I think that we have to do something in this Bill that would ensure that people are not getting caught not knowing that there is some contamination on the property that they've purchased or that they own, for that matter. When we say we want to deal because it doesn't deal with farmers and landowners in an unreasonable way, it goes a lot further than just notice.

Take, for example, the fact that the oil industry would come in, take care of the reclamation of the property, and then just charge whatever it deems is necessary or it wants to to the landowner of the day. Because that's clearly what it is. That's what's happening with this Bill, Mr. Speaker. We're going to charge the landowner eventually, and the landowner has no rights whatsoever by the sound of things. The landowner sits back and says that he has no rights in the hiring of the contractor who's going to reclaim that well. He has no rights in trying to find out whether or not he can get a lower bid from somebody else. If he's ultimately going to end up paying for those costs, then he or she ought to have the right to at least tender out to find out who's going to do it cheaper. I know that nowadays if you're going for financing on a piece of property, if there is even a hint that there may be contamination of any kind on the site, you're required to get different levels of assessments. There's a phase 1 environmental assessment, phase 2 and phase 3 and different levels that I speak of. Those different environmental assessments can cost you various amounts if you go to different contractors.

So what's stopping the industry from walking in, getting whoever they want, reclaiming the oil well, and charging back to the owner of the property whatever it deems it wants to? I mean, there's no stopping them from doing so. Where are the rights of the landowner all of a sudden? I think we've lost them in this Bill. We've got to tighten it up. We've got to say that the landowner has to have sufficient notice, and they have to know what their rights are. They have to understand that the process that is about to take place to reclaim that orphaned well is going to be spelled out to them. They have the right to consult with environmental people, and they have the right to get bids if they want to and the right to be able to do it on their own without having the industry come in and do it.

With that, Mr. Speaker, I'd like to end my comments. Thank you.

9:30

MR. DEPUTY SPEAKER: Are you ready for the question?

HON. MEMBERS: Question.

MR. DEPUTY SPEAKER: The question before the Assembly is amendment A to Bill 5 as moved by the hon. Member for Fort McMurray.

[Motion on amendment A lost]

MR. DALLA-LONGA: Mr. Speaker, I'd like to move amendment B, which says that the motion for third reading be amended to read

that Bill 5, the Oil and Gas Conservation Amendment Act, 1994, be not now read a third time because the Assembly feels that the Bill creates an unregistered lien which has first charge over all other liens, mortgages, and security instruments, creating a potentially damaging relationship between the energy industry and the financial community with respect to existing financial arrangements.

Mr. Speaker, I understand what the purpose of Bill 5 is, the intent of the Bill, but it's kind of like using a cannon to kill a canary. It achieves an objective but in my mind creates a number of other problems.

Before the members opposite get all fired up, hot and wrought up and everything else, I have discussed the amendments proposed to this Bill, I have discussed the Bill and what it intends to do with members of the oil industry and members of the financial community. This Bill undoubtedly will in some certain cases cause problems, but with some simple amendments this thing can be rectified. Now, it's up to the members opposite, who have the majority, to decide if they want to support something which can create this Alberta advantage or if they want to go ahead with this legislation, flawed as it is, and create problems for all sorts of people.

Now, not even the Income Tax Act, Mr. Speaker, which is a fairly powerful piece of legislation, contemplates the powers which this Bill does. Under the Income Tax Act if you don't have your income taxes paid, they can't come in and shut down your company. Yet under this Bill, with the orphaned wells for which we don't know any owners, as was previously discussed, they can come in and shut down your wells. That's fairly powerful legislation.

Not only that, Mr. Speaker, it creates some other problems. I've experienced these problems firsthand. I'll give you an example of some problems. Let's say, for example, that company A is going to sell some wells to company B. Okay? Now pay attention here. I don't want you to miss anything. You get what's called a title opinion – okay? – done by the lawyer for the

purchaser. So he goes out and expresses an opinion on the title of the oil wells that he's buying. Now, this legislation contemplates being able to put a first charge ahead of all your bank security, but there's no way of registering it. Like, you can't go down to the motor vehicles branch and find out if there's a lien on the car. You can't go over to the John J. Bowlen building and find out if there's a lien on your property. You can't go and find where there's a lien on the oil and gas property. So how is a lawyer going to do a title opinion on a particular well? How does he know that the ERCB hasn't placed a lien on this particular well which he's been asked to express an opinion on? No answer, Mr. Speaker. No heckling. So they must agree. So that's one problem.

You could say, "But it doesn't say in the Act . . ." [interjection] I think the hon. Member for Three Hills-Airdrie has an answer, though. I'll be anxious to hear what she has to say about it later on.

We could say, "Well, the ERCB will act as a central registry," but that's not covered in this Bill, which would be cumbersome at best. The lawyer could be compelled to go to the ERCB, another level of bureaucratic mess for lawyers to go through, and if the ERCB doesn't confirm it, then there's no lien effective. That would be a possible solution, but that's not covered in the Bill.

Now, we're trying to solve a problem here. The problem is that the ERCB has administered funds which are funded by the industry, this \$2 million fund. Now they're looking for ways to get their money back, and the quick solution was to slap a first charge ahead of everybody else on a particular asset. It doesn't even have to be an oil and gas well. It can be a car, a building, or whatever. That's not done in very many other places in commerce. That's not possible. Like, this is really pioneer stuff here, hon. members.

You're going to create problems for professionals, for the lawyers, as I just mentioned, and the bankers. I'll tell you how with the bankers. You're a junior oil and gas company; okay? You've raised all your equity, and you want to go drill up some assets, prove up some properties, drill some development land, and the equity markets aren't there anymore. The hon. Member for Calgary-Mountain View can relate to this. The equity markets aren't there anymore; okay? So you go down to your friendly banker. He's smiling. He wants to lend you some money. But he now knows about the existence of this Bill here, Bill 5, and it says that if I as the banker lend you some money, I could be usurped by this Bill because it could come ahead of me. Therefore, I have to take stock of what my risk is.

Now, there are not very many places that I can think of, if any, where somebody can jump in ahead of bank security, not even the federal government with their Income Tax Act. If you owe income taxes, they can't jump ahead of a first mortgage, and you know how much they like to get their money. Granted, we've got to find ways to get the money back – I don't deny that – but you're going to upset the apple cart in another manner.

The third group of people we're going to cause problems for – and once again I'm speaking from firsthand experience – is receivers. Somebody who goes in and does a receivership of an oil and gas company is going to have to deal with this issue. How do they know that there's a lien out there? Well, maybe they can go to the ERCB. I don't know. Maybe they can; maybe they can't. It's not clear.

The fourth group of people this is going to cause problems for is the auditors of that oil and gas company. They're going to have to deal with the disclosure issue here, and they're not necessarily going to be able to readily find out. What are the liens that have come ahead of first security? What are the repercussions? What is the disclosure?

Mr. Speaker, I'm not making these up. I've discussed this with other people in industry, and I know the hon. Minister of Energy has discussed it with a number of people. I don't know; maybe in the interests of trying to resolve this particular problem, the other sorts of problems weren't looked at. I've just laid them out. They've been identified and agreed to as being problems by people out there in the real world, yet the members opposite refuse to acknowledge these amendments, and here we are into third reading. Is it because the members opposite are on the government side and just don't have to listen to the opposition on any amendments that we can't come up with any amendments that are valid? I mean, I can see all sorts of problems coming. You can see constitutional challenges to some of this stuff: jumping ahead of first security.

Mr. Speaker, I'm going to finish my comments there, and I'll let some of my other colleagues speak. I'd be very interested in hearing some response from the members opposite on my points, if there is some sort of explanation for some of these problems that I've brought up.

Thank you.

9:40

MR. DEPUTY SPEAKER: The hon. Member for Calgary-Buffalo.

MR. DICKSON: Thanks very much, Mr. Speaker. I rise to speak in support of amendment B. I think there are principally two reasons that I support this amendment. The first one has to do with the enormous uncertainty that's created in terms of lenders dealing with the oil patch in this province. The second problem I've got is the abrogation of what we call the mirror principle.

Dealing with the first point, the issue of uncertainty, it is, I think, a classic abuse of power by government to insert or to create a first charge, a first claim in priority to any other commercial lender's claim. Mr. Speaker, it may well be that when we're talking about employment standards or the Builders' Lien Act, it's understandable that we would want to say that we'll give unpaid workers a preferred claim. I can defend that. I can understand that, because if workers don't have that statutory benefit, then truly they will lose out in virtually every case to other creditors. But that's not what we're talking about here. We're talking about the board being in effect the creditor. It's the board that stands to gain, and members must understand that what we're giving them with the way the Bill is currently worded is absolutely extraordinary. Section 15, a new provision 93.1(3), creates an extraordinary preference or priority for the board.

Now, I suppose maybe reasonable men and women can disagree in terms of whether that should happen or not, but I'm not clear from reading *Hansard* and listening to previous discussion when reasonable, considered amendments were offered by this side and rejected that all members understand the breathtaking scope of this particular amendment. What we're saying in effect is that we're setting aside, we're brushing aside, we're ignoring any other charge, including a secured creditor's charge. That is extraordinary, and I don't think the case has been made. I mean, as a taxpayer I'm anxious to see the board recover the cost, but I'm also concerned that we not create so much uncertainty, so much jeopardy to lenders that in effect they simply decide that there's a whole lot of transactions they can no longer afford to finance, that the risk is too high. That's what we're left with if this amendment is not supported by a majority of members and Bill 5 moves forward in the face of this amendment.

I said that there were two problems I had that caused me to support it. The first one I talked about was the uncertainty.

When I go back and my memory's refreshed from looking at previous debate on April 12 and other occasions when this was discussed in committee, I see that the argument I make now has been set out, I think forcefully and effectively, by other members in my caucus. So let me turn to the second issue here, and I described it as the mirror principle. What we understand in this province perhaps more than most other jurisdictions, because of our Torrens land system, is how effective, how certain, how predictable it is for lenders to know that if there's a charge or you're thinking of lending against any particular asset, there's a place you can check. You can determine very, very readily, very inexpensively where you stand, what other claims there are that may rank in priority to your own. You're able to do a due, diligent search. You're able to make a search, you get an opinion, and then you're able to make the business decision, the financial decision in terms of whether to lend or not to lend.

Well, what we're doing here with what we're about with this Bill, particularly with section 15 and the provision I had mentioned, subsection (3) of the new section 93.1, is we're ignoring that. We're leaving it aside. The government members rejected a constructive amendment to ensure that we use the personal property registry system to file this. There's been no suggestion in terms of another place it could be filed, so where we're left then, Mr. Speaker, is that there is no place you can readily go and find out whether in fact as a lender you're going to have a problem with this section. So what I see happening is statutory declaration on top of statutory declaration. There are going to be all kinds of opinion letters. There are going to be further searches. You're going to have banks asking lawyers to do opinion letters, and the lawyers will refuse to do it because of the uncertainty involved. What we've done is the very thing that businesspeople most dislike: create uncertainty in dealing, create risk and create uncertainty. That seems to be exactly where we're headed with this.

So I think I'd just encourage members to consider that we're rushing ahead with a principle that hasn't been adequately detailed. It hasn't been adequately packaged in the Bill. There's been no consideration given to registration. There's been no consideration given in terms of why this should rank in priority to secured creditors. These are all legitimate, bona fide problems. I'd be disappointed, Mr. Speaker – and I hope I'm not – if particularly members of the government caucus chose to charge off in this direction without ensuring that there was adequate protection to avoid those two concerns I've identified, both in terms of the mirror principle and in terms of uncertainty generally.

I think this is a very responsible amendment. I'm happy to support it and encourage other members to do so as well. Thanks very much.

MR. DEPUTY SPEAKER: The hon. Member for Edmonton-Roper.

MR. CHADI: Thank you, Mr. Speaker. I as well rise to speak in favour of this amendment because I do have a concern, and my concern lies with respect to the landowners themselves: the people who already own property or are about to buy some property and are unaware of the consequences that are in store for them. This amendment asks that the Bill not be

read a third time because the Assembly feels that the Bill creates an unregistered lien which has first charge over all other liens, mortgages.

That's where my concern lies, with the person who may be a landowner today and was not a landowner at the time the wells were being drilled, which would be quite appropriate to say if

they're abandoned now and the abandonment means that we cannot find who the owner is. Those wells may have been drilled some time ago, probably 30 years ago, maybe 40 years ago. Land has changed hands quite considerably – land sells fast in the province of Alberta – and it may have changed hands numerous times. Not knowing what the consequences are, somebody who owns a piece of property today could end up being saddled with a very expensive cleanup cost.

9:50

I have to stress that according to the Bill and the way I interpret it, it says under 93.1(2) that

when operations for the abandonment of a well are conducted by the Board, a member of the Board or a person authorized by it, and the sale of any equipment, installation or material under section 93 does not generate sufficient funds to cover the debtor's proportionate share of the costs.

It clearly says "the debtor's proportionate share of the costs." If you go back to section 1(a), it defines the debtor to include "any person who fails to pay well abandonment costs." Well, I have a bit of concern here that if it is an abandoned well, an orphaned well, one that we cannot find the owner of, then why is it that we have all of a sudden found the debtor? The debtor is who in this case, Mr. Speaker? The debtor must be the landowner. It's not clear as to whether or not it isn't. If it isn't, then it should be in here. Who is the debtor? The debtor must be the landowner. That is why the industry, through Bill 5, can go back and place a lien or make that landowner pay for the costs. That's where this whole system breaks down.

I think that we have to ensure that the rights of the property owners are protected here. I certainly would not want to be some purchaser that is going out to pick up a quarter section of land and find out later that there is an abandoned well there and the industry is coming in, coming in at the whim of the industry whenever they want to, to give me notice. It's clear; it says that notice will be given. Sure, notice will be given, but it doesn't say how much notice will be given. That's okay. Let them give me notice. I still think that we ought to have 60 days' notice, because there are many things that take place in trying to find out and determine whether or not I would want to be treated fairly, and that would be with respect to the costs. If somebody is going to come in and reclaim that well that is on my property, I would want to know what it is going to cost me. If it's going to cost me something, because it says clearly "to cover the debtor's proportionate share of the costs of abandonment," then I would want to know. It's not clearly spelled out as to who the debtor is in this case. Mr. Speaker, if the well is an abandoned well and an orphaned one where we cannot locate the owner, then who's the debtor?

I would hope that we would support this amendment, because I think this is a good amendment, one that will consider protecting the property owner in this case. Thank you very much.

MR. DEPUTY SPEAKER: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you, Mr. Speaker. I was delighted in the last reasoned amendment when the minister of agriculture, the Minister of Energy, and the Minister of Health all felt sufficiently concerned about this particular Bill that they stood up and spoke in support of the government's position. I do, with the kind permission of the minister of agriculture and the Minister of Energy and the Minister of Health, want to correct a couple of things for the benefit, I hope, of future debate in this Legislative Assembly.

First of all, is this Bill good for rural Alberta? The minister of agriculture says it is, and I doubt that there is much disagreement in this Legislative Assembly that the Bill is good for rural Alberta. Is the Bill good for environmental issues and environmental protection issues? The Minister of Energy says it is, and I think few would take exception to the Minister of Energy's position on that point. Her points are well taken. This Bill creates a way of cleaning up abandoned wells, and I heard nobody from this side of the Legislative Assembly speak against that concept or express negative views about the desirability of doing that. The Minister of Health also spoke about some of the desirability of cleaning up abandoned wells.

I want to say, with respect, to the minister of agriculture and to the Minister of Energy and to the Minister of Health that that is not the issue here; that is not the debate. The issue here, my friends, tonight and on previous debates on this Bill is: is this Bill the best that it can be? Is the Bill the best that it can be? With respect to Members of the Legislative Assembly that take a contrary view when I speak, I don't stand up and speak out of some frivolous viewpoint that I am simply airing out the clock. I stand up and speak because in my own brain I've thought through the issues, and I feel that they are worth seeing the light of day. Members opposite may disagree with me. The minister of agriculture, with respect, may feel that I am not correct in the legal position, the political position, or the factual position that I put forward. The Minister of Energy may feel, with respect, that I am not correct in the legal position, the factual position, or the political position that I put forward. In fact, the minister might disagree completely with the philosophical thrust of our argument. But the point is that debate is the to-ing and fro-ing, the exchange of useful ideas. I come here and I stand up, Mr. Speaker, and I want to share with the minister, whether rightly or wrongly, the things that I think are wrong with the Bill. Now, why should that conduct be discouraged in any way? Wouldn't it be better, with respect to those who hold a contrary view, to sift through the width and breadth of the proposed amendments and suck up like a greedy sponge those that have merit?

[Mr. Speaker in the Chair]

In dealing with the farmers, the minister of agriculture has the vested interest of farmers at heart. I have seen the minister of agriculture sponsor the Bills, I have seen him speak in question period to agricultural issues, and I know that he feels very strongly about fighting for the rights of farmers. Well, when we suggest in a piece of legislation that there be a smallish amendment put in to give farmers 30 days' notice, should we be criticized and lambasted for that, or should that be accepted as potentially a good amendment? If we suggest that farmers could be protected better, that does not say that farmers are not being protected. It simply speaks exactly of what we say: that farmers could be protected better.

Now, in the section to which this amendment speaks, we are expressing some concerns about the fragility between the financial community and the oil industry, and the concerns that we are expressing are that philosophically we disagree that there should be a first unregistered charge for well abandonment costs and well levies.

Now we come to the issue of well abandonment costs. The minister has indicated on numerous occasions in this Legislative Assembly that this legislation speaks only of abandoned wells. The Member for Calgary-Varsity at the back says that abandoned wells are wells where you can't trace an owner. Well, I could not find – and the minister in her infinite wisdom and experience with

energy matters can point out to me where in the Oil and Gas Conservation Act or in these amendments the words "orphaned well" are entrained into the definitions at all. Quite the contrary, Mr. Speaker. "Orphaned wells" is really a euphemism, and what is defined is abandoned wells. Well, an abandoned well can have in fact multiple parties who might be responsible through the evolution of law for the cleanup costs, and in fact the government makes this point when they indicate that well abandonment costs can be pursued against the oil industry. So that is what we are speaking of now in this amendment. We are not speaking of the well out there that can absolutely be traced to no root whatsoever. The legislation itself admits and acknowledges the fact that there can be recovery made to those people who do not pay the costs of abandoned well cleanup.

So the philosophical and political issue is: how should that be handled? The government has elected to create a lien. They may be right. The government may be right that the creation of a lien is the right way to go. First of all there will be an oil industry fund for cleanup costs. It would be right and proper that the oil industry would want there to be reasonable chances for the fund to seek recovery on those people who have not paid. The issue is: to what extent should the financial relationship between the oil industry and the banking community be stressed or strained or challenged by that? Now, the minister would assist me in the debate if she did not repeat the definition of orphaned wells but dealt with the issue of whether or not she perceives there to be a strain between the financial community and the banking community on this issue and how she proposes to deal with it.

One of the suggestions that has been made most eloquently by the Member for Calgary-Buffalo . . . [interjections]

MR. SPEAKER: Order.

Hon. member.

10:00

MR. GERMAIN: Thank you, Mr. Speaker. One of the suggestions that has been made most eloquently by the Member for Calgary-Buffalo is that we should have some way at least of searching and checking for lien registrations and that there should be some way – and my colleague also mentioned that auditors, bankers, oil industry lawyers will have difficulty now giving letters of opinion. Well, the minister may have some ready-made answers and solutions for those issues. That's what debate is all about. I didn't come down in yesterday's rain. If a compelling and convincing argument can be made that indicates that there was no less intrusive way that the minister could protect the oil industry, protect the lien fund, and get the wells cleaned up, I would be happy to hear from her. But it is not helpful to say simply that we're trying to – as the member opposite referred, for example, that people who debate on this issue are obstructionists.

These are serious and concerned areas. All of the areas and all of the issues that have been raised are serious and warrant some concern. They warrant some answers. It may be that the minister says: "You know, ladies and gentlemen, you raised some good issues. What we'll do is pass this piece of legislation and then immediately get to work on those value-added improvements and enhancements." There should be no looking a gift horse in the mouth. When we suggest ways of improving this legislation, we don't do it for any reason other than to help the province of Alberta.

Now, all of these amendments proposed are value added. I say with respect to all Members of this Legislative Assembly that it is wrong to simply assume that a Bill cannot be made any better. If that were the case, ladies and gentlemen and members of this

Assembly, we would never have any Bill amendments. I've been doing a rough tally, and the number of brand-new, original subject matter items that come before this Legislative Assembly, at least since I've taken my seat here, are very few in number. In point of fact, most of the legislation that comes before us is enhancement, improvements, rethoughts, evolution of the thought process. So it is simply unfair to Albertans to assume out of hand that legislation cannot be improved.

It is also unfair to Albertans – and I say to the government of this province that the government does itself a disservice when they immediately assume that talk here is simply for the sake of talk, because I suggest to you with respect, Mr. Speaker, that what that does is close the mind. Even if you have your ears open and your eyes open, when the mind is closed, the debate is closed, and the chance to improve the legislation slips in likelihood.

Now, why can't a Bill that is prepared in an excellent fashion by the Minister of Energy be tightened up, improved, and lifted up a little bit to help the minister of agriculture deal with farm issues and to help the minister of agriculture on some points? Why can it be and why should it be ruled out of hand that a Bill can't be improved to assist the banking community and the finance community? Why can't the Bill be improved to assist the oil community?

So the amendment has been made, and perhaps it is a clumsy way to make an amendment, by way of reasoned amendment, because it leaves the Bill in limbo. Members here recognize that. But when you are clinging by your fingernails to a precept, and the precept that you're clinging to is the desire to improve the Bill so that it is the best Bill it can be – the best Bill it can be – can you fault any Member of this Legislative Assembly for reaching out and trying to make the Bill the best Bill it can be? By doing that, you do not criticize the minister of agriculture; you do not criticize the Minister of Energy. It is not a personal affront. So I always say: is the sauce good enough for the goose and for the gander?

Let's suppose the roles had been reversed on June 15, and I was sitting on the government side and was sponsoring a Bill and had a chance to listen to people making value-added enhancements. What personal loss of face would I have by reaching out and saying: "Give me those, and keep them coming, and thank you very much. Give me those value-added enhancements and lay them out here for Alberta"? Why can't we have . . . [some applause] I'm delighted, Mr. Speaker, to have that emotional outburst of support from all members on both sides of this Legislative Assembly. *Hansard* will record that spontaneous and prolonged applause. I've always learned that it's time to quit when you are on a winning roll. As a result, that will conclude my comments.

MR. SPEAKER: The hon. Member for Edmonton-Norwood.

MR. BENIUK: Thank you, Mr. Speaker. I find it interesting that I will be rising to defend oil companies, who will put in an awkward position with this lien. I find it interesting that I, representing a riding in the centre of a city, am also rising to defend the interests of farmers and ranchers. An unregistered lien means that no one knows there is a lien until they get a bill. This is most, most uncomfortable for the oil companies and for owners of . . . [interjections]

MR. SPEAKER: Order please. Order please. Could there be less private conversations going on in the northeast corner of the Chamber.

The hon. Member for Edmonton-Norwood.

MR. BENIUK: Okay. I will be short, Mr. Speaker, but I'm sure that Cypress-Medicine Hat will assist me in making it 20 minutes.

Mr. Speaker, I just wish to go on record as being very concerned about the implications of this lien provision both on the oil industry and the financial community and also on the farmers and ranchers of this province. I fully support this amendment, and I do urge all members to fully support it. I am sure the oil industry will be watching with great interest on how all members vote on this motion.

I thank you.

MR. SPEAKER: Is the Assembly ready for the question?

HON. MEMBERS: Question.

[Motion on amendment B lost]

MR. SPEAKER: The hon. Member for Edmonton-Roper.

MR. CHADI: Thank you very much, Mr. Speaker. I move on behalf of the Member for Fort McMurray . . . [interjection] Oh, I'm sorry. I move

that the motion for third reading be amended to read that Bill 5, Oil and Gas Conservation Amendment Act, 1994, be not now read a third time but that it be read a third time this day six months hence.

Mr. Speaker, this amendment comes forward because after numerous amendments that have been presented by the opposition to Bill 5 to try in a spirit to improve this Bill, to make it the best Bill possible, as the Member for Fort McMurray spoke earlier – why don't we strive to create the best Bill possible? Why is it that when amendments are brought forward to consider making it better that they are ignored? They're just completely not taken into consideration and have, in fact, been sometimes torn up right in front of us.

The fact of the matter is that these are good amendments. If they're not good amendments, speak on them as to why they're not good amendments. In debate one would present an argument and then somebody else would come in and say the opposite, or the pro and the con, but you don't have it. This is a one-sided debate, it seems like, where the opposition gets up time and time again and has given up valuable time to worthy amendments that can be brought forward to make Bill 5 – as in any other Bill but in particular Bill 5 – a good Bill, because the intent of the Bill is good. There are good intentions in this Bill, Mr. Speaker. So why don't we make some amendments that would enhance this Bill? Asking for 30 days' notice for a farmer so that they would know that somebody is going to enter upon their property is not unreasonable. Why on earth you find it unreasonable is beyond me.

10:10

Then to suggest that a debtor can have a lien placed on the property. It's quite clear that the property owner in this case has got to be somebody like – it can't be the Crown. I can't imagine. We've got enough. Probably we have abandoned wells on Crown land, but are we going to allow liens to go on Crown properties? No, Mr. Speaker, I doubt very much. We're going to have situations where farmers, where landowners, myself included perhaps, and everybody in this Assembly, whoever owns a piece of land that may have a well on it that is abandoned – we are all at risk here. Every single Albertan is at risk when we talk about Bill 5. What we have to do is protect them. What's wrong with finding some protection in this Bill for the property owners? That is why we're standing here today. Each one of us that gets up

and speaks to Bill 5 speaks for the rights of Albertans, speaks for the rights of those property owners, speaks for the rights of the oil company that needs protection as well.

Mr. Speaker, I think it would be a wise thing to do to take this Bill and postpone, just give it some time here. Six months would be an adequate time to reflect as to what is a good piece of legislation, a good Bill to present. I guarantee that I'd be the first to jump in and support the Bill. I would be. But this Bill is flawed in its present state. This is not what I'd like to see as being the best Bill we could bring forward. I know we can bring better than that forward. What's wrong with making a simple amendment? What's wrong with that? You'll get your assurance. I'll give you my assurance here tonight that we'll support this Bill. But bring in some of these amendments. Do it now.

With that, Mr. Speaker, I will allow other members to respond. Thank you very much.

MR. SPEAKER: The hon. Member for Edmonton-Avonmore on the amendment.

MR. ZWOZDESKY: Thank you, Mr. Speaker. I've been sitting here for a couple of hours listening very intently and taking some notes regarding this particular Bill, because I'm genuinely interested in it. At first glance I thought this Bill would find favour with me the way it's worded and the way it's phrased, but upon hearing the debate as it's gone and in particular the most eloquent debate coming from this side of the House which flags again some concerns for the government as it proceeds in its normal fashion of doing things that it sees fit without total regard for the larger picture – and in this case the rights of so many people that are affected therein – I have been propelled onto my feet.

Now, what I'd like to just flag here is the concern that has already been eloquently phrased with regard to the need to step back once in a while and take a look at what it is that is being ushered in. We have seen in this House, Mr. Speaker, time and time again that when Bills get rushed through, they get presented in a fashion that doesn't allow the government to retrace its steps as readily as it might like. This is what is referred to in the business as the ready, fire, aim approach. I see a little of that again here, so I'm going to try and help the government yet again to not fall into that pitfall of being taken to task by groups such as farmers. Having grown up in a farming community and having, through my father, owned a farm where he had in fact oil lines, pipelines, transmission lines, and all other kinds of lines run through, I know firsthand what kind of interruptions and inconveniences some of these so-called pipelines and, in this particular case, oil wells can create.

So as I read through this Act, the first thing I tried to do was come to terms with the expression that the Minister of Energy herself repeated so many times. I think I counted 18 different times that she used the words "orphaned wells," and I thought for a minute I was reading the wrong Act. So I immediately plowed into this Act, and I started digging through it. I took out a fine-tooth comb. I was going to go home and get a microscope, because nowhere in this Act could I find the term "orphaned wells." I thought: what's going on here? What is the hon. minister talking about? If there's a brand-new terminology or if there's some thesaurus I need, then I'd like the minister to clarify that for me, because I have a concern here. She's talking about orphaned wells, and I quite frankly don't see it. If she could just point out the page and the reference number, I'd be happy to reread this, but the way I've read it as of now, I really am a bit confused.

So I stand back and I ask the government to maybe stand back and allow a little more time for this Bill to be reviewed. That's in fact what this motion C, this amendment, asks the government to do. This is not to say that this Bill can't be worked out or that some other arguments can't be presented or that some of the points raised on this side of the House, taken in concert with points raised on the other side, can't somehow be used to jell a better product. That is in fact what we're trying to do here, Mr. Speaker.

Quite frankly, the effrontery of some of the members opposite appears to be gumming up the motors of the democratic legislative process, which we're all entrusted with fulfilling to our best abilities here. We certainly are trying to do that here.

Now, as I look at these rights that are being abrogated or at least not appreciated on behalf of farmers, I myself have some great concerns on behalf of these landowners. I don't think it would hurt at all if the minister were to let us know the degree to which she herself has pursued this Bill, and I'm not saying that she hasn't, because I'm sure she probably has. But I also know that we've done some research on this side which behooves some fairer treatment than we've been getting in this House. I'd like the minister to at some point in this debate clarify for us – I'd sure feel a lot more comfortable if she clarified for us the number of farmers that she has taken this Bill to, that she has spoken with in drafting it. I'd like to know who in fact did the drafting of this Bill, because it looks like it's been a little shoddily presented, perhaps a little haphazardly. I'm not prepared to stand here and vote for something that has been rather quickly tossed together and something that in this instance doesn't cover the full gamut as accurately as it could.

At the same time, I'd like that little bit of breathing space for the government members opposite on behalf of the oil companies and all the other people who are trying to create those 110,000 jobs that the Premier and others keep talking about. We have a vested interest to try and protect some of those companies as well, and I'd like to know who she's spoken with in that regard. I'd like to see some proof and some evidence for once, because we have sat here day after day, month after month, week after week, Mr. Speaker, and listened to so-called evidence that has been presented, but as we saw in the case of kindergarten, there was no evidence. We're still looking for the evidence that would support that. They've tabled all kinds of documents that don't relate to anything pertinent to that subject insofar as that point of view is concerned, and the same danger perhaps might exist here.

So this is just a cautionary note. It's a plea to the Minister of Energy. That's all it is. I'm sure she is well intentioned in this Act and would like to in fact do something . . .

Point of Order Relevance

MR. SPEAKER: The hon. Member for Calgary-Currie, rising on a point of order.

MRS. BURGNER: Thank you, Mr. Speaker. I would like to raise an issue on *Beauchesne* 459, on relevance and repetition. My understanding was that we were reviewing an amendment by the hon. Member for Fort McMurray regarding that this particular Bill be not now read but be read six months hence. Here I'm understanding the opposite member saying that he doesn't like the way it's written. My concern is that if we're now discussing the timing of this Bill, questioning how it is written is not appropriate. [interjections]

MR. SPEAKER: Order please. The Chair doesn't feel there's a need for a full-blown debate on this point of order. If the Chair

understood the hon. Member for Edmonton-Avonmore, he was suggesting that more time was needed for consideration of the drafting of the Bill, and that was the import behind the motion by the hon. Member for Edmonton-Roper.

The hon. Member for Edmonton-Avonmore.

MR. ZWOZDESKY: Mr. Speaker, as always not only a perceptive comment but a deadly accurate one on your part. I appreciate that.

Debate Continued

MR. ZWOZDESKY: That is exactly what I'm asking for, and I'll just clarify for the Member for Calgary-Currie's interest that all I'm asking for is a little bit more time, not just for our side of the House here, because we're not the ones who have to defend this action once it's carved in stone. It's the government who has to. Perhaps they would like to take a second look themselves. I'm sure there are members on some of those benches that would themselves, given the intensity of the debate tonight, now appreciate a little longer look at this. So that is indeed exactly the thrust of what my comments are.

I'd just underscore the same concerns here with regard to the unregistered lien aspect. It's not entirely clear exactly how it is that the government is going to go about doing this part of the Act and within what period of time these liens would be asked to be retired. I think somebody's putting the cart before the horse here, and once again there must be a different way to phrase or to craft what it is that the minister intends here. I don't think it's going to come out necessarily tonight, so, again, a second look at this Bill might well be in order.

I would conclude my remarks on that basis and simply ask the government to just stop, take a look at this, move back, take a few months as this amendment requests, and perhaps come back with a fresher, more updated version of it that can prove to me and to other members on this side of the House that they have in fact done the consultations that have been promised.

So with those few brief comments I would simply ask and urge the support of all members in this House for amendment C, which would allow that time to take place.

Thank you.

10:20

MR. SPEAKER: The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Speaker. I find that as the debate comes to a close on this Bill, I simply must rise and address some of the issues that I've seen happen here. This is the first time I have spoken to this Bill. While I have listened to the debate in this House for a number of hours and have read the transcripts in *Hansard*, I find myself completely amazed at the government's performance in response to this Bill.

The hon. Member for Fort McMurray has raised any number of legitimate amendments to this Bill that have a lot of depth to them, which the government certainly should have taken some time to consider in terms of processing this Bill, yet what we see hour after hour, night after night is the government sitting there and doing nothing but making their usual catcalls. Well, I find that completely appalling. I find that there are some serious flaws in this Bill that the members from our side have worked very hard to change, and in that process you have completely ignored them. I find it completely appalling, just in terms of the three amendments that we see here tonight, that this government not fairly deal with the rights of farmers. I find it very funny that you'll be going back to your constituencies and defending your position in

this regard and that you have not fairly dealt with landowners in regard to this Bill. Again you're going back to your constituencies, and you're going to have to defend that position. When you haven't risen here in this House tonight and debated this issue, I find your position unreasonable.

What about the potentially damaging relationship between the energy industry and the financial community? Well, since I walked into this House tonight, I haven't seen one government member rise to defend that position, to give us one good reason why the financial community will not be defended in their situation in this regard. I see absolutely no response from the government side, yet you're pushing forward with this Bill. You're wanting it to be processed in a fast and an untimely manner, and the rights of people in Alberta are going to be once again completely ignored.

So from that perspective I am completely in support of this amendment. I think that this Bill should not be read for a third time, that we should reconsider this in six months' time when the government has had a chance to legitimately review these amendments and to work with the people who have done the research in this area and to bring forward a Bill that will truly properly represent the people of this province.

Thank you.

MRS. BLACK: Mr. Speaker, there's been a lot of talk back and forth on the third reading of this Bill, and I think it's important that this Bill proceed, because what it does is deal with more than one aspect. It deals with having wells that are not productive any longer being ordered to be abandoned if there's a licensee in place. If there is not or if the licensee is not there, this is where the position of orphaned comes. If the licensee is no longer there, then the board steps in and has the well abandoned.

Now, the difficulty, I guess, is coming from the standpoint of that there are two aspects. There is the fact that when you're given a licence to drill a well, you're the licensee and you have the responsibilities to carry out through the production of that well all the way through abandonment. That's one issue.

The second issue is where you're given a licence to drill a well, you go through drilling and completion but you don't follow

through with the abandonment and you're gone. That's the orphan side of it, and that's where the Act says that the board can step in. So there are two aspects. [interjection] Please, hon. Member for Edmonton-Gold Bar, let me go through this. When there is an evident licensee in place, they have the financial responsibility under the current legislation to pay for the abandonment themselves. When there is not that licensee in place any longer, then this fund would step in. The board which has ordered the abandonment to take place because the licensee is not there or may direct someone else to do it on their behalf would have any kind of recoverable items from the well replenish the fund. The fund is set up on a voluntary basis by the industry not to cover where there is an active licensee but where there is in fact not. The term "orphaned" is to clarify that there isn't one there.

Mr. Speaker, I think this is an important Bill because it does clarify it, and certainly I would feel that no one would argue that if in fact the board, meaning the Energy Resources Conservation Board, is left with the task of abandoning a well, any equipment that may be on site could in fact be sold to replenish the fund. That's all this is doing. It's quite straightforward. So there's no penalty.

Now the hon. members are waving to sit down. They ask for answers. I'm giving answers. Now it's sit down.

So, Mr. Speaker, with that, I would encourage hon. members to vote for this Bill.

[Motion on amendment C lost]

MR. SPEAKER: On the main motion, is the Assembly ready for the question?

HON. MEMBERS: Question.

[Motion carried; Bill 5 read a third time]

[At 10:30 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]

