

Legislative Assembly of Alberta

Title: **Wednesday, October 11, 1995**

8:00 p.m.

Date: 95/10/11

[The Deputy Speaker in the Chair]

THE DEPUTY SPEAKER: Please be seated.

MR. DAY: Mr. Speaker, following discussions in consultation with the Opposition House Leader I would request unanimous consent of the House to waive Standing Order 73(1) to allow second reading of Bill 44.

THE DEPUTY SPEAKER: Having heard the motion by the hon. Government House Leader, does the Assembly agree with the motion?

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? Carried.

head: Government Bills and Orders
head: Second Reading

Bill 44
International Trade and Investment
Agreements Implementation Act

THE DEPUTY SPEAKER: The hon. Member for Medicine Hat.

MR. RENNER: Thank you, Mr. Speaker. I had a wrestling match with the elevator in the Annex and took the stairs. The elevator won.

Mr. Speaker, it's a pleasure for me to rise this evening and speak on second reading of Bill 44. Increasingly international trade and investment agreements are dealing with issues that are within provincial jurisdiction, such as investment rules, regulation of services, and the regulation of professionals. An example is the recent NAFTA. As the world progressively begins to look at more of this type of agreement, we have to recognize that in Canada our system of government is not necessarily equivalent to other countries.

We have very clear distinctions between federal and provincial jurisdictions in this country. Other countries don't necessarily have the same type of arrangement. So when these agreements are negotiated nation to nation, some nations have the ability to sign the agreement binding the entire country. In Canada that's not quite the case. Depending on what the issue is within the agreement, it often will require the provinces to sign the agreement as well as the federal government.

This Bill will provide a formal and consistent procedure for the approval and implementation of international trade and investment agreements that affect a matter within the jurisdiction of a province, in this case obviously the province of Alberta. The process in the Bill is consistent with Alberta's position that negotiations by the federal government which lead to international trade and investment agreements that affect matters within the province's jurisdiction should be taken with full participation of the province.

The Bill also provides for the enforcement in Alberta of panel determinations made under either the NAFTA environmental side agreement or the NAFTA labour side agreement. These changes permit the domestic enforcement of panel determinations and are

required in Alberta since Alberta has signed the federal/provincial agreements to implement the international agreements in Alberta.

Again, Mr. Speaker, the differences in our country and the laws in our country and the differences between federal and provincial jurisdiction necessitate these provisions within the Bill. Other countries have a different system. In the case of the United States with respect to NAFTA the U.S. federal government can sign the Bill and, in so doing, automatically draws in all of the states in the nation. In Canada that's not the case. The side agreements were signed by the federal government, but there is a provision within that agreement that until there is a sufficient number of provinces signed on, the agreement does not come into effect. That is based upon a combination of gross domestic product within the province and population.

Let me get into a little bit of information about some generalities on the Bill. As I mentioned, increasingly these international agreements are dealing with provisions that are purely within provincial jurisdiction, and we have two examples within this Bill this evening. Tonight, in addition to the generic provisions within the Bill for future agreements, we also are dealing specifically with the side agreements regarding environment and labour. Mr. Speaker, clearly, environment and labour are both areas that are within provincial jurisdiction. The province needs a way to deal with issues and approve and implement international trade and investment agreements and the international dispute settlement rulings to assert and maintain our authority and responsibility in these areas of provincial jurisdiction.

The Bill provides for interim regulations. Regulations are interim to allow the implementation of international agreements or dispute settlement rulings while awaiting opportunity to deal with these issues in the Legislature or by regulation under other Acts.

Again, Mr. Speaker, to emphasize, when the federal government gets involved in these types of negotiations and we have 10 provinces that also are involved in the implementation of the negotiations as well as the two territories, it may be difficult, in fact almost impossible, to have the individual provinces deal with any necessary legislative changes that would be required as a result of that agreement and have all of those coinciding with the actual signing of the agreement.

What this Bill allows is for the interim regulations to be passed by order in council, but it very specifically says that there is a clear sunset clause on the passage of those regulations by order in council if they are not dealt with and approved by the Legislature within two years. Now, the reason we have two years in this Bill is really a timing situation. It could well be that we have an election that falls within that period. The agreement sometimes takes some negotiating on the part of provinces, and two years is a reasonable time frame for the Legislature to deal with those regulations.

There is a provision in this Bill that I would like to make special mention of. When I first read through the Bill, I had some concerns with it, and I would like to give a brief discussion on the section in the Bill that limits the rights of action. I think it's very important for all members of the Legislature to understand that international agreements are not domestic law in Canada. They are brought into effect by domestic legislation. What this clause in this Bill says is that no one has a right of action against the government of Alberta based on the agreement. Any citizen has a right of action against the government based on the laws of the province but not on international agreements. It is only the domestic laws which govern us. Therefore, individuals are not able to use international agreements as grounds for action against

governments. Individual Albertans will have recourse through the domestic laws and administrative appeal procedures to deal with these concerns. This is consistent with Canadian traditions of implementing international agreements and mirrors the federal practice.

There are two distinct sections to this Act, Mr. Speaker. I have dealt with the first in some detail. I certainly look forward to dealing in much more detail when this Act gets to committee stage, and I look forward to dealing with any questions that may arise at that time.

The first part of the Act deals with implementation of future international agreements, and the second part of the Act deals with the implementation of the existing agreements, those specifically being NAFTA, the North American free trade agreement, and the two side agreements to NAFTA, one dealing with the environment and the other dealing with labour. In a nutshell what those side agreements say is that each signatory to the side agreements, that being Canada, United States, and Mexico, agrees that they will enforce to the full extent of the law the law of their own Legislatures. This has nothing to do with lowering standards to deal with international trade. It has nothing to do with bringing together and bringing commonality to standards. It says very clearly that each country that signs that agreement will enforce the environment standards in the case of the environment side agreement or the labour standards in the case of the labour side agreement.

8:10

This is a good example of what we talked about in the first part of the Act where these international agreements are starting to deal with areas that are within provincial jurisdiction. Here we have an agreement that was negotiated nation to nation, albeit Alberta and other provinces certainly played an important role in that negotiation. The agreement is signed by the government of Canada, but it deals with areas that are specifically within provincial jurisdiction, in this case the government of Alberta.

What the second section of this Act does is allow through the agreement a determination of a dispute panel to become part of Alberta law, and any fines or penalties that may be assessed by that dispute panel are then referred to Court of Queen's Bench in Alberta. This is very clearly to the benefit of Canada and the benefit of Alberta because in allowing these disputes to come directly through the Canadian court system or in this case the court system in Alberta, we preclude discriminatory trade sanctions from being put up in the case of a dispute. I think all members could well imagine that if we got into some kind of trade dispute with one of the other signatories to the agreement and that dispute ended up going on for quite some time, if the complaining nation decided to put up trade barriers, decided to put up tariffs in the interim until the dispute was settled, it would have a very detrimental effect on Alberta's economy.

What this says is that through the agreement there is a dispute resolution process. It is a very lengthy process. All the way along that process there is room for negotiation. There is room for a good deal of mediation, and it's unlikely that it would ever get to the full extent of the dispute resolution process, of having a fine levied against Canada or Alberta as the offending government. However, if that happened, there would not be trade sanctions imposed; there would be a fine.

Basically, remember what this agreement is all about. The agreement says that we the government of Alberta as a signatory to this agreement will abide by the laws of Alberta. Quite frankly, Mr. Speaker, I think that if we are not abiding by the laws of Alberta, it's very legitimate grounds for complaint. So I

don't see a situation even arising, but if a situation did arise, there is plenty of opportunity for the nations – and it is nation-to-nation negotiation. There is room all the way through the process. Perhaps when we get to the committee stage, if members like, I can get into some more detail on the dispute resolution process, but there is ample opportunity for negotiation between the disputing parties. If it gets to the point where a fine is levied against the province of Alberta, it is necessary that we have this in our legislation to allow that fine to be levied. It's also important to note that within the side agreements themselves, it very clearly says that when a fine is levied, the funds from that fine have to go back into the jurisdiction that paid the fine to help to rectify the problem. If we had a dispute that was ruled against Alberta because we were not living up to the environmental laws of this province, the fine would then be used to rectify the situation that caused the complaint in the first place.

So I think it is reasonable. I think the key is that by allowing this dispute resolution process to go right straight through to Alberta courts, we are clear of any threats of discriminatory tariffs that can prohibit and hurt the trade and particularly the export markets from this province. I'm sure all members will agree with me that the province of Alberta, of all provinces in this country, relies more heavily on exports, and discriminatory tariffs would be extremely detrimental to the province of Alberta. That basically in a nutshell outlines what the Act will do.

I would also point out to all members that the Act comes into force upon proclamation, and it can be proclaimed in two sections. Part 1 can be proclaimed separately from part 2. In fact, part 2 will only be proclaimed when there are sufficient numbers of provinces onside with both the environmental and the labour side agreements, and the government of Canada then can sign the agreement. It's more or less a conditional signature at this point in time until provinces come onside. This is clearly within the direction of the government of Alberta, of the province of Alberta to be involved in these trade agreements, and this legislation will allow the province of Alberta not only to bring into line and formalize our signature on the side agreements with respect to NAFTA but more importantly will allow us to participate more fully and be signatory to future trade agreements that are negotiated.

With that, Mr. Speaker, I thank you, and I look forward to debate on this Bill.

MR. DECORE: Mr. Speaker, when I looked at this Bill on first pass, I didn't have much difficulty with it. As I got to read it and tried to understand it more thoroughly, I now have more difficulty with it, and I invite my friend who just spoke to perhaps allay some of those fears. I'm also going to ask that the Minister of Justice give us some comment on this, because I see some serious problems.

Mr. Speaker, first of all, I can't argue that I'm against the free trade arrangement with the United States and with Mexico. I've always taken that position, as has this party on this side. The issue of understanding the constitutionality of the United States and of Mexico is something that I'm not an expert in. Perhaps my friend has got more experience and more knowledge on that than I. I note that the United States has a constitution, and I note that they have states that have specific jurisdiction. I accept your position, hon. member, that Canada is unique and that there are very specific, clearly defined divisions federally and provincially.

8:20

The preamble of this Act, Mr. Speaker, talks about dealings involving international trade and investment agreements. Now, if

I were trying to define provisions of international trade and provisions of investment agreements, I think that my mind could carry me a long way. You can talk about labour legislation. You can talk about banking, about co-ops, about environment, about legalities. You can talk about all sorts of things.

For example, if you're talking in the area of labour legislation, you could think about, well, minimum wages. Minimum wages in Alberta are X dollars per hour; in Newfoundland they may be X minus Y dollars at a particular time. I think you can carry this logic, Mr. Speaker, and say: well, gee, if somebody is negotiating and implementing an international trade agreement that involves making components in Newfoundland, in Alberta, and Saskatchewan and we're dealing with minimum wage requirements, and suddenly by regulation the Alberta government waives the situation of a \$5 minimum wage that's imposed by this agreement that's suddenly being committed to in, say, Mexico – well, we've gone through a lot of debate. We've gone through a lot of review and analysis in this Legislature, in this province, to establish a minimum wage. I use that first example.

A second example might be the kinds of chemicals that we deal with and, say, can't be used with respect to certain agricultural products because under the Constitution we have joint jurisdiction with the federal government in the area of agriculture. By law we have the right to say that on, say, canola, these sorts of chemicals cannot be used. Then we get into a situation where we're trying to compete with somebody in Mexico, and suddenly there's a waiver by way of regulation saying: "Well, this chemical now is okay. Forget about the Act or the Bill or regulation that exists in Alberta. We'll just sort of forget that for two years and impose this thing by regulation."

Now, hon. member, if I'm wrong, explain to me that I'm wrong, but this is what this to me means. This is the way I analyze it. You can have a trade arrangement, you can have an investment arrangement that takes in all kinds of permutations and combinations. Quite frankly, I find it difficult to understand, and here's where I'd like the Minister of Justice to provide some assistance on this and perhaps the lawyers that he has dealing with this issue. We're here to uphold the law, Mr. Speaker. We take an oath that we're going to uphold the laws of this province. How can we as legislators suddenly see in the back room in a cabinet by way of regulations somebody just sort of saying, "We're going to forget about that law for a year or a month or a year and a half or 365 days times two minus one day, two years minus one day?" How can we do that? Who gives us the right to do that? Isn't that a contravention of our oath? Isn't that a contravention of the Constitution that we are supposed to abide by? This is the difficulty that I have with this.

Now, Mr. Speaker, I remember a year or so ago when I stood and asked questions of the hon. Minister of Education when he was bringing forward legislation that involved I think some 43 areas where regulations would be used. My argument was that we have a committee that's set up, a standing committee in this Assembly called Law and Regulations. Just to see what would happen today, I sent a note to the chairman of that committee, and I said: when are you going to convene the first meeting of the Law and Regulations Committee? It hasn't met for the last – I don't know – four years?

MR. HAVELOCK: Ten years.

MR. DECORE: Ten years. The chairman says 10 years. [interjections] Yes, indeed, hon. member, the chairman should get busy.

Point of Order Imputing Motives

THE DEPUTY SPEAKER: The hon. Member for Calgary-Shaw is rising on a point of order.

MR. HAVELOCK: Yes, 23(h), (i), (j), Mr. Speaker. The hon. member is inferring that I certainly have the ability unilaterally to call a meeting of this committee. I once again have to emphasize for him and members of this House that the committee can meet only upon the direction of the Legislature. If the Legislature so directs, I'd be happy to call the meeting.

MR. DECORE: I accept that. I accept that, Mr. Speaker. I note that as a further part of the debate when I was debating with the hon. minister, I said: let's get a motion. Let's get this thing into the Committee on Law and Regulations, and let's do, hon. members, what every other Legislature in Canada does, and that is that they have a committee that meets, and every regulation that comes forward must be reviewed by their particular Law and Regulations Committee. Now, if we had that . . .

THE DEPUTY SPEAKER: Hon. member, I think if it's a point of order, I presume you were speaking to it and agreed to it. So the Chair must rule that he has made a very good clarification point and would invite Edmonton-Glengarry to continue.

Debate Continued

MR. DECORE: Thank you, Mr. Speaker. The point's made and has been made time and time in this Assembly that we need to have a system of reviewing regulations, because the effect of this Bill 44 is to say – and let's use my example that I had. Newfoundland and Alberta and Saskatchewan create an investment opportunity in Mexico. It's necessary to do some rejigging on minimum wages. So the Alberta Legislature and cabinet decide, or a ministerial order decides, that we don't have to follow the minimum wage.

Now, under this provision of this Act the Legislature can meet whenever and deal with that problem, or it can hang there for up to two years. I think that flies in the face of what we do in this Assembly. What we do in this Assembly is, by careful consideration, by careful debate, enact laws, Bills, regulations that have to be adhered to, and you can't just play fairy godmother and wave a wand and say that we're not going to be concerned about those for a year and a half or a year and three-quarters or two years less a day. So I've got lots of trouble with this particular section, and I want my friend from Medicine Hat to allay those fears.

Now, the hon. Member for Medicine Hat quite correctly brings to our attention the fact that this provision not only involves the issue of trade and investment agreements, but it involves labour and environment. So all of this is the point that I'm trying to make, that by regulations, regulations that sometimes have a funny way of not being gazetted or made public at appropriate times, is suddenly the way, the method of solving a problem that exists. Now, I don't think that the federal government intended that, hon. Member for Medicine Hat, unless there's something that I haven't read or seen or understood when they signed that agreement.

Mr. Speaker, I can't support this Act unless I can understand it in a better way, or unless there are some amendments that are made to clarify some of those points. I'll stop there. There are

other comments that I'll make, and other amendments that I'll put forward in due course.

Thank you.

THE DEPUTY SPEAKER: The hon. Minister of Environmental Protection.

MR. LUND: Thank you, Mr. Speaker. The hon. Member for Edmonton-Glenarry raised some very interesting points. The one area that may help alleviate some of his fears of this agreement are found in section 7(f). That relates to the agreement that we signed with the federal government back on August 15. That's the side agreement that's referred to in here. What that agreement really does is basically say that under this agreement, we will not do anything that would cause our environmental laws to be lowered, our standards to be lowered. In fact, that's what it's all about, that we will make sure that we are living up to and enforcing our standards. So I think that should help to alleviate that, because all the way through this, really that's what it's about. It's not imposing Mexico's or the United States' standards or even standards in other parts of Canada upon us. It's simply making sure that there's a mechanism that we will not in order for competitive reasons do something to our laws or allow our laws to be circumvented. I think it's a good piece of legislation. The principles of the legislation are simply those that are necessary. If we're going to have these kinds of agreements when we have the different forms of . . .

Point of Order

Questioning a Member

MR. DECORE: Mr. Speaker, could I put a question to the hon. minister?

THE DEPUTY SPEAKER: Okay; under *Beauchesne* a member is to rise on a point of order and ask if the speaker would entertain a question. The speaker only needs to agree or not agree, say yes or no, and does not have to give a reason.

MR. LUND: Agreed.

THE DEPUTY SPEAKER: The answer is yes.
Edmonton-Glenarry.

8:30

Debate Continued

MR. DECORE: Mr. Minister, if that's the case, if we have a side agreement that says that our laws with respect to the environment cannot be in any way reduced, affected, turned around, rendered useless, why do we need the whole of part 2 then? In this Bill 44 that says that where there is any inconsistency in any matter involving a trade arrangement or a financial arrangement and such arrangements could involve the environment, why then, Mr. Minister, do you need the provision that says that if there is an inconsistency by way of regulation, by way of ministerial regulation, you can waive that and deal with that inconsistency? Why do you need that section? If we're not going to contravene, as you suggest, why don't we just delete the whole of part 2?

MR. LUND: I'm not sure that I totally follow the hon. member, because part 2 talks about the international trade and the investment agreements. It doesn't specifically mention the side agreement on the environment, nor the side agreement on labour.

As you go through part 3, that's where you get into those issues. I'm not sure what the hon. member is referring to exactly.

THE DEPUTY SPEAKER: On clarification, Edmonton-Glenarry.

MR. DECORE: Well, Mr. Speaker, specifically 5(1)(c): "to resolve any inconsistency between an Act or regulation and an international trade and investment agreement." So you can by regulation resolve any inconsistency, and the minister has said: well, there never will be any inconsistency. This part 2 says that that is a possibility and you'll deal with it.

MR. LUND: Our interpretation and the hon. member's interpretation are somewhat different. If he would get a copy – and we can sure provide that to him – of the side agreement that we signed with the federal government, it clearly shows that we would not be changing or not enforcing our laws on the environment for the sake of this agreement. Now, if we're going to change the laws on the environment, it cannot be done for the sake of this agreement. That's the area that I think is so important to understand.

Mr. Speaker, the one thing that we of course are very proud of is our environmental laws in this province and how we enforce them, and we don't want to in any way, through NAFTA, see those laws somehow not being observed. So through this side agreement we say that we're committed to not allowing that to happen for the sake of NAFTA.

THE DEPUTY SPEAKER: The hon. Member for Calgary-North West.

MR. BRUSEKER: Thank you, Mr. Speaker. I, too, support certainly the concepts as outlined in the preamble of this particular piece of legislation. There's no question that for a province such as Alberta international trade agreements are absolutely vital for our economic well-being.

When I proceeded to read through the Bill, I too had a few concerns, some of which have been addressed by my colleague from Edmonton-Glenarry. My understanding is that in order to implement these side agreements, we need to have a certain percentage of the provinces in the nation agree to those side agreements. Even in the Bill it talks about this Bill providing "a mechanism," not the only mechanism or the only way we could provide that agreement.

I guess my first question to the Member for Medicine Hat is really why it is that we're pursuing this particular path, a path of creating a piece of legislation. I have some concerns with that that I want to get into in just a moment. Is there not another means by which we could indeed ratify this side agreement without having to pass a piece of legislation such as we have before us today? I'm wondering even if we need a Bill. Does not the minister or the cabinet collectively have the ability to sign an agreement ahead of time?

The reason I raise that is because even within the Bill itself it talks about, "The Lieutenant Governor in Council may make regulations." As I've said before with respect to other government Bills, this is a phrase, Mr. Speaker, that we have seen in many pieces of legislation, and when we look at this, unfortunately we don't see any regulations coming alongside of this Bill. The Bill refers to "any inconsistency between an Act or regulation and an international trade and investment agreement." So the

question I have to ask is: is this just a blanket clause we are throwing in to cover any what-ifs that might happen, or are there really some inconsistencies that exist? If the inconsistencies exist, then I think they should be presented here with this Bill, now, in the Legislature so we can debate the whole package. If there are no inconsistencies, then that section doesn't need to be in here.

Now, as I understand it, we're dealing with two particular side agreements, one to which the minister of environment has already spoken and one I presume to which the Minister of Labour will speak later on. So I'm working under the assumption – and it may be a false assumption, Mr. Speaker – that those two ministers have looked under those two areas of international agreement and have reviewed to see whether or not inconsistencies or conflicts exist under current law and those two side agreements. If there are inconsistencies, then they should be dealt with in the Bill at this time. If there are no inconsistencies, we don't need to have the provision in the Bill. So either way I have some real discomfort with the section following the heading, "The Lieutenant Governor in Council may make regulations," and then there's a number of clauses that describe that.

I, too, would like to hear from the ministers that they have looked at the international agreements that are being discussed, parallel to that, if you will, Mr. Speaker, parallel to the international agreements, that they've looked at the Alberta legislation and presumably also Canadian legislation to see whether any conflicts arise. I would also, then, if there is a conflict and regulations need to be made, like to have some kind of a commitment that those regulations would in fact be debated in the Legislature and discussed in the Legislature, be considered here, because this is, to my way of thinking, a very focussed piece of legislation that deals with two agreements that already exist. Again, this whole section on regulations is kind of open-ended.

There are a couple other sections that deal with the concept that a panel will be created to be an arbiter and that there really is no appeal from the decision of that panel to any other body or a higher court or whatever you want to call it. In one section it says that no appeal may go to the Court of Appeal, and it seems in fact that a decision from this panel would be final; there is no way to appeal that. Now, again it seems kind of arbitrary. We're talking on one hand about regulations that will be potentially, I guess, created if a conflict is determined by I presume the respective departments of government at some point in the future, and then we will be subjecting ourselves to an agreement that will be determined by an outside panel who will make any ultimate decisions as to where we may go.

So I'm a little concerned that from the looks of the overall Bill what we potentially would be agreeing to is something fairly loosey-goosey here that really doesn't spell out clearly exactly what it is we may be getting ourselves into in terms of the province of Alberta.

8:40

Now, I think it was the mover of the Bill from Medicine Hat who talked about parts 1, 2, and 3 being proclaimed either individually or separately depending upon how other signatories come on board. I guess I would have to question then: if we are dealing with a piece of legislation that is really proposing to ratify our involvement in Alberta with NAFTA side agreements, are other provinces introducing similar kinds of legislation that deal with the same issue in separate parts, as this one proposes to do, which would then also potentially be proclaimed in separate sections? I would hate to think that we might be the forerunner of something that other provinces are going to sit back and have

a look at and say: well, wait a minute; we don't really like what Alberta has done, so we're going to do something different. So I don't want to leave ourselves in the province of Alberta out on a limb, so to speak, Mr. Speaker, that might not be a limb that we can crawl back in off of because it might break out from underneath us.

I guess when I look at all of this, just in closing then, Mr. Speaker, certainly the preamble, the concept of let's improve our international trade, our international investment I think is certainly the right direction from a conceptual standpoint. Having said that, there are some concerns that I see with the mechanism being proposed within this piece of legislation that I hope either one of the ministers involved or the mover would address in closing debate on this Bill.

Thank you, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Member for Sherwood Park.

MR. COLLINGWOOD: Thank you, Mr. Speaker. I'm pleased this evening to participate in the debate on second reading of Bill 44. I've listened very carefully to the comments from the sponsor of the Bill and from my colleagues from Edmonton-Glengarry and Calgary-North West as well as the Minister of Environmental Protection.

Mr. Speaker, I concur that the North American free trade agreement and each of the two side agreements that are referred to in the Bill deserve ratification by the Legislative Assembly of Alberta. Indeed it's appropriate that the ratification process occur through legislation, at least to the extent that the legislation is the law that gives the Lieutenant Governor in Council the authority to declare its approval for that international trade and investment agreement. So I think it's appropriate that the Bill has come forward. Notwithstanding some concerns that have been raised by my colleagues, I think it's appropriate that the Bill has come forward for debate in this form.

I would concur with my colleagues that we as members of the opposition do recognize the benefits of broadened free trade. We have always felt that that was an important and progressive step for provincial as well as federal governments to take. I think that under this particular agreement and the specific mechanisms that are included, Albertans through their representatives and Canadians through their representatives will have an opportunity to learn as well as to teach their own experiences in the areas of trade, economic development, environment, labour, and so on. So from that perspective, Mr. Speaker, I certainly agree with the concept.

Now, I'm going to take a bit of a stab at this and recognize some of the concerns that have been raised by my colleagues. I note that the international trade and investment agreement must be an agreement that's entered into by the government of Canada. By definition within the Bill any agreement that's an international trade or investment agreement is an agreement that has been "entered into by the Government of Canada." Now, in terms of the preamble and in terms of the purpose of the Bill we need to deal with that where it has issues of provincial jurisdiction, so while notwithstanding that it is the federal government on behalf of all Canadians that is the signatory to the agreement, provinces have the opportunity and responsibility to ratify that within the context of things that affect their own provincial jurisdiction. I think, actually, that's stated very clearly in the preamble to the sections of the Bill.

Now, the reason I raise that, Mr. Speaker, is because that means that before any agreement has been signed by the government of Canada, before any agreement will constitute being an

international trade and investment agreement under this Act, there has to have been negotiation with the provinces. So if we have or we can see clearly inconsistencies between our own legislation and the agreement that is about to be signed by the federal government on behalf of all Canadians, we have the opportunity in those negotiations to deal with the inconsistencies. It's all done before the ratification process takes place. I raise that and say that because it does impact on the question raised by the Member for Edmonton-Glengarry: why do we need part 2 of this particular Bill?

Now, Mr. Speaker, the purpose of the Act, which was referred to by the Member for Calgary-North West, is clearly set out in section 2 of the Bill. It is to provide a mechanism. Now, as I read the Bill, part 1 of this Bill does provide that mechanism. Part 2 tries to do some greater detail of that mechanism, and part 3 deals specifically with provincial jurisdiction on decisions of the tribunal or commission as laid out in annex 36A of the environmental side agreement and also 41A for the labour side agreement. So part 3 deals with provincial jurisdiction relating to the commissions and the enforceability of their decisions. Part 2 appears to deal in some specifics with the ratification, and part 1 under section 3 is essentially the same thing.

What part 1 does is allow for the ratification process for agreements that have already been entered into, and under this section they allow for approval either by ministerial order through the Minister of Federal and Intergovernmental Affairs or by order of the Lieutenant Governor in Council. Now, personally, Mr. Speaker, I would prefer that that only be the Lieutenant Governor in Council, as the part 2 section refers to, rather than the Lieutenant Governor in Council or the Minister of Federal and Intergovernmental Affairs. If we are going to ratify an international trade and investment agreement, I think it's appropriate that that ratification, if it's being done by regulation, be done by the Lieutenant Governor in Council rather than by ministerial order.

Now, when you look at part 2 of the Bill, Mr. Speaker, section 4 has two components to it. It applies to international trade and investment agreements entered into before this Act, and it applies to international trade and investment agreements entered into after the coming into force of this Act. Now, from my perspective it would be entirely appropriate for this Legislative Assembly to debate this Bill within the confines of section 3. In other words, when the negotiation process has been completed for an international trade and investment agreement and Canada and the federal government on behalf of all Canadians is a signatory to that agreement, it then comes to the Legislative Assembly, where provincial jurisdiction prevails, for that ratification. The ratification authority and approval can be given by this Assembly to the Lieutenant Governor in Council after the fact. We do not need provision in this Bill that gives greater authority to the government or the Lieutenant Governor in Council to deal with those issues before the agreement is actually signed by the federal government or for agreements that may happen in the future that we have not had an opportunity as Members of this Legislative Assembly to understand the process of. I think we have all followed very closely over the last number of years the North American free trade agreement, certainly the side agreements on the environment and labour arising from those agreements.

8:50

Now, Mr. Speaker, with respect to the authority to be given to the Lieutenant Governor in Council under section 5, which is the concern that was raised by my colleague for Edmonton-Glengarry, the Minister of Environmental Protection has said: no, we have

the Canadian intergovernmental agreement, the agreement that was signed on August 15, 1995, between the Minister of Environmental Protection and the federal government. We have under that agreement a requirement that we will not reduce our environmental laws to satisfy competing forces that may be existing outside of our boundaries in other signatories to the agreement. But that doesn't quite answer the question, because presumably we can always under our domestic laws change the laws however we feel. The minister well knows that he has significant and tremendous power under our domestic environmental laws, that he can by regulation change those laws which will fit and benefit very nicely into, potentially, the international agreement. So the side agreement says that we will not change our environmental laws just for the international agreement. Fine. We'll change our laws for our own domestic purposes, and it will just so happen that it will coincide very nicely with the federal agreement where there is an inconsistency.

So it's very easy for the Minister of Environmental Protection or the Minister of Labour to say that we didn't do it. We complied with the Canadian intergovernmental agreement. We did not reduce our strong environmental laws under the Canadian environmental agreement. We did it under our own domestic laws under the Environmental Protection and Enhancement Act, the various sections of that legislation that give the minister directly and specifically the power and the authority to change our laws by regulation. So the minister could potentially say: "I followed the Canadian intergovernmental agreement to the letter. It just so happens that we as a government, as a cabinet, decided that we wanted to loosen or soften our environmental laws, and it just so happens that that fits very nicely into the inconsistency that was in the international trade agreement." So the argument is limited, Mr. Speaker.

I invite the sponsor of the Bill, I invite the Minister of Environmental Protection, I invite all members opposite to once again rise to address the issue raised by my colleague from Edmonton-Glengarry and my colleague from Calgary-North West and myself as to why it is necessary that we need part 2 of the agreement, save and except for section 6 because section 6 is part of the agreement. In fact, the Member for Medicine Hat was very articulate in explaining the need and the reason for section 6 of this Bill. Those decisions do not fall under domestic law. Fair enough. We need the provision in there that eliminates the cause of action by virtue of the international trade and investment agreement without the consent of the Minister of Justice and Attorney General because it is not domestic law. It is under an international agreement.

Other than section 6 of part 2 of the Bill, Mr. Speaker, I have still not been able to understand why we need this section when we have section 3 that gives the government the authority under that section to pass by regulation an approval or ratification of an international agreement that has already come into being. If we have section 3, we don't need section 4 and section 5. We simply accept that the ratification comes after the fact and will come after the fact by regulation under section 3. We don't need to worry about the problems that the wording in section 5 causes us. That section could be eliminated without any difficulty to the Bill whatsoever, and we would still have a mechanism in place for this Assembly to ratify an international trade and investment agreement. It would not kill the concept of this Assembly giving approval to that agreement that has been signed on behalf of Canadians by the federal government.

Mr. Speaker, I would very much like to hear some comments from the other side as to why we need part 2 of the Bill, why part 1 does not satisfy the requirements of ratification, and why we

can't in debating this Bill move forward without that section and agree to give approval through regulation to the North American free trade agreement and the two side agreements on environment and labour.

Thank you, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Meadowlark.

MS LEIBOVICI: Thank you, Mr. Speaker. It gives me great pleasure to stand this evening and address this particular Bill and re-emphasize the points that have been made by the hon. colleagues of the opposition who have spoken before me. I'd like to take a slightly different tack in terms of looking at what effects the International Trade and Investment Agreements Implementation Act may well have with regards to labour laws within this province.

One of the comments that struck me right at the beginning of this debate was the comment from the Member for Calgary-Currie, who indicated that there was no need to have the regulations committee meet as the government did it right the first time. In effect, if that is the case, then it is surprising that there is a committee set up with the Member for Peace River who is looking at all the regulations within government in the attempt to, my understanding is, abolish some regulations that are not required.

What we see here again is a Bill that has the potential to add to the regulatory power of this particular government without looking at the need for the Legislative Assembly to overview, as it were, some of the actions of government. When we look at in particular the free trade agreement and we look at the track record of the government and we look at the possibility of the government having the ability to make regulations without that overseeing effect of the Legislative Assembly, we start to look at something that has the effect of being quite frightening. We heard this government talk about harmonization. We've heard and seen the track record of the government and government members with regards to labour laws in this province. We all know that the government of Alberta has one of the most restrictive labour laws in Canada.

[Mr. Clegg in the Chair]

Then we look at what the actual NAFTA agreement, the supplemental agreement of September 13, 1993, talks about with regard to labour laws, and we see that it affects labour laws with regards to freedom of association and protection of the right to organize. It isn't quite surprising, I think, given the atmosphere within this province that right now right to work is something that is being actively looked at. In addition, you look at the right to bargain collectively as part of that.

The right to strike. Again it's not surprising that the ILO – that's the International Labour Organization – has indicated that this government is in contravention of the labour standards with regard to allowing hospital workers the right to strike.

We look at labour protection for children and young persons and minimum employment standards such as minimum wages and overtime pay. Again it's not surprising that this government has indicated that they refuse to look at the minimum wage, that that's not something that they wish to consider on an annual basis. In effect, when one looks at employment standards and occupational health and safety standards, which are also included under the NAFTA supplemental agreement, those areas are now being contracted out and are being privatized, with businesses now looking at enforcing occupational health and safety standards.

So when you take that picture in terms of what exactly could potentially be covered under NAFTA and when you look at the track record of this government, you then begin to understand why there is some hesitation in terms of when an item such as article 5 under Bill 44 shows up, where it gives unlimited power to the government to make regulations out of the view of the public eye. It begs the question in terms of how the Minister of Labour and the minister of environment can ensure that harmonization will not mean a replacement of our existing standards, that harmonization will not mean that in effect we will have lower standards.

9:00

As the hon. Member for Sherwood Park had indicated, there is nothing, nothing at all that prevents the ministers of this government saying, "Well, we will change our internal laws in order to harmonize with those other laws." Again, given the track record of this government specifically with regards to labour laws, it is not beyond the realm of imagination that that could potentially occur, that there could potentially be at some point a regulation that says that there will be no minimum wage within the province of Alberta, that there could potentially at some point be a regulation that says that occupational health and safety standards may be looked at, that there could at some point be a regulation potentially that says that workers' compensation is not something that needs to be considered as a right within this province.

I think that as opposition members we are looking for assurances from the ministers in terms of how this particular Bill precludes that from happening, how this particular Bill precludes the eventuality of there ever being a regulation that downgrades our standards, that in effect our standards will be held up as a model and in fact our standards can be improved, as there can always be improvement in everything, that our standards will at least be a model for Mexico and for the United States to follow, not the other way around. Until we get those assurances, I will not be able to support this particular Bill.

Thank you.

THE ACTING SPEAKER: The hon. Member for Lethbridge-East.

DR. NICOL: Thanks, Mr. Speaker. I just rise this evening to make a couple of comments about Bill 44. I think that most of the speakers that have preceded me this evening have spoken very favourably about the idea of the benefits that accrue from broader international agreements. I've had some dealings with governments in trying to put together these kinds of regulations and these kinds of deals, and I recognize that what we've got here is a piece of legislation that in essence brings to the provincial government the capacity to bring consistency between the negotiated agreements and provincial law.

I look at part 1 of the agreement, and I see in here that we're basically allowing the Lieutenant Governor in Council or the minister the right of approval. Part 2 then provides us with the opportunity to provide for changes in legislation either through temporary regulatory change or longer term legislative change to make our laws and regulations consistent with the requirements of this international trade agreement. These are both very generic type parts of this Bill. They refer in very general terms to any agreement that we may enter into, both past or future. In that perspective they can cover NAFTA; they can cover the Canada/U.S.; they can cover GATT. They can cover any agreement

that's entered into by the federal government with implications back to our provincial legislation.

Then we go on to part 3, and there's a total change in the mood of the Bill. There's a total change in the focus of the Bill. Suddenly we've gone from a very generic umbrella-type all-encompassing legislation to very specific parts of the legislation, and this kind of surprises me, because what we are going to have now is – let's just say that under the NAFTA we now ask for some new side agreement that comes back. This Bill doesn't cover it. So what we've done is given the government total authority to make broad changes and acceptance of legislative change in parts 1 and 2, but when it comes to specific implications of panel action resulting from commissions or groups set up under side agreements, we'd have to come back to the Legislature again. So it just surprised me that part 3 isn't as generic in terms of its . . .

MR. DAY: Point of order, Mr. Speaker.

THE ACTING SPEAKER: The hon. Government House Leader on a point of order.

Point of Order Second Reading Debate

MR. DAY: Thanks, Mr. Speaker, I've been hesitant to rise on this, because I do sense a good and positive spirit of constructive criticism here. It's just that the timing of it is misplaced, because *Beauchesne* 659 is very clear that the clause-by-clause analysis of a Bill shall happen at the committee stage and that second reading is reserved for just the broad principles of the Bill. I want to address clause by clause those areas that do affect matters related to labour, and I will have to probably do that under second reading as the questions have come out under second reading.

So I'm asking that you would just rule on that. I'm saying that this is positive, good, constructive criticism, and certainly the Member for Lethbridge-East is known for that, as are others, but it's misplaced. That needs to happen at committee stage, where we can respond quickly back and forth and look to genuine improvements to the Bill. I'd ask you to rule regarding this clause-by-clause analysis at second reading.

THE ACTING SPEAKER: Hon. member, on the point of order.

DR. NICOL: On the point of order, Mr. Speaker, yes, I fully agree with what the member opposite has just said in terms of his point of order, but I'm speaking to the principles that underlie the different parts of this Bill, not the specific clauses. I talked about part 1 being general in terms of its approval of an overall piece of international legislation. Part 2 is, again, a very general piece of legislation that talks about inconsistencies, but then part 3 in terms of principle takes a totally different approach. The principle of the Bill has been changed in terms of its approach to the legislation. We had very generic parts of the legislation at the front; now we've got very specific. To me that's a change, and it's an issue of principle.

Can we deal with a piece of legislation that has very specific parts in it that in essence would preclude the application of this piece of legislation to any panel consideration except under the environmental or the labour addenda to NAFTA? So it's a principle that I'm speaking to here, Mr. Speaker.

THE ACTING SPEAKER: Certainly the hon. Government House Leader has a point of order to the extent that in committee we do go clause by clause. However, in second reading we have been very lenient, so we will allow the hon. Member for Lethbridge-East to continue with the idea in his mind that he will certainly stick with the principle of the Bill.

Debate Continued

DR. NICOL: Thank you, Mr. Speaker. Yes, I do have some specific comments on sections within the Bill that I'll bring up in committee, but in final reference to the issues of the principle I guess I would just have expected part 3 to have been much more all-encompassing, to in essence enable the government to deal with the kinds of panel considerations that would come up under other side agreements as well. Given that kind of approach, we see that there's a very big inconsistency in the Bill.

I guess in talking to it finally from a principle standpoint, if the Member for Medicine Hat and the government would like me to support this Bill, I would find that very difficult. What they're doing is basically asking me to certify through this piece of legislation the right of Executive Council to take over the authority that has been given to us as legislators by the people who have elected us, and to turn over the power of agreements, changes in the application of an international agreement to Executive Council I think goes beyond the mandate that the people of Lethbridge-East gave to me when they elected me. I'm going to have to vote against this.

THE ACTING SPEAKER: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you very much, Mr. Speaker. You know, I just came back and other members of the legal community from this Legislative Assembly on both sides of the House just listened to an inspiring speech from an inspiring Canadian, the national Minister of Justice, the Hon. Allan Rock. I know the members opposite will be interested in knowing that the hon. minister will be astounded to see *Hansard* record this type of negative reaction in this Legislative Assembly, members opposite booing, when the minister opened his comments by commending our Minister of Justice on his spirit of co-operation. I think it's astounding that the members opposite would boo – would boo – a national figure who is trying to do good for the country. [interjection] Now I'm coming to the point.

9:10

THE ACTING SPEAKER: On a point of order, the hon. Government House Leader.

Point of Order Relevance

MR. DAY: One word: relevance, Mr. Speaker.

MR. GERMAIN: Had the minister exhibited some patience, he would have seen me make that opening comment relevant right now. [interjections]

THE ACTING SPEAKER: Well, obviously . . . [interjections] Order. [interjections] Order. Obviously there is no relevance in what your opening remarks are, but we're anticipating that that's the end of it. You will get into the debate on the Bill.

Debate Continued

MR. GERMAIN: Yeah. Now, one of the things that the minister left us with tonight was that those people who have enjoyed the benefits of society by being able to graduate from a law school as prestigious as the University of Alberta's should use their legal training for some good. I hope, Mr. Speaker, that in discussing this Bill tonight, Bill 44, all of the members will appreciate that I am trying to use that legal training to some good when I take them on a little bit of a legal lesson to begin with.

We have had in this country, Mr. Speaker, a long-standing tradition that it is regulation that is always subordinate to the laws. Okay? There are reasons for that. One of the reasons is that the law is more readily knowledgeable to the Canadian public than a regulation buried deep in some obscure book, and in this province "buried deep" is certainly a correct analogy of the regulations.

So now in this particular piece of legislation for the first time that I can recall in the two years that I have been here – and other members can point me to others – we have a situation whereby regulations that the hon. Member for Barrhead-Westlock may not have an opportunity to contribute to, regulations that the hon. Member for Calgary-Currie may not have an opportunity to contribute to, regulations that the hon. Member for Whitecourt-Ste. Anne may not have an opportunity to contribute to, and indeed the hon. Member for Cypress-Medicine Hat may not have the opportunity to contribute to, those obscure regulations are going to be put ahead of the law. Then what we're going to do is two years after the fact we're going to cancel them automatically.

Tell me, hon. members who are supporting this Bill, how that can be fair. What happens if somebody organizes their business affairs, their financial affairs, their commercial affairs on the basis of a regulation that disappears two years after the fact that doesn't even deal with what happens to the excess or to their business decisions that they've made? How are we going to explain to somebody who believes in the law and looks to a piece of legislation, not knowing that in a dark room in this mysterious building that law has been superseded by a regulation?

Now, I know that the Minister of Labour is squirming now. I know that, because he is starting to see a parallel. I mean, there'd be no other logical explanation for him trying to stifle my debate with his meaningless point of order earlier. He is worried that people are going to look at this piece of legislation. You know, Mr. Speaker, he was so proud today when he moved this onto the government Order Paper. He was so proud. You could hear the pride in his voice. This legislation does to free trade integration, with the rest of Alberta laws, exactly what the now dishonoured Bill 57, the delegated regulatory authorities Act, did to the rest of the legislative regime in this province. This is exactly what the government is doing. What they recanted and what they backed off on less than a year ago, they now bring forward, hoping that the hon. Member for Barrhead-Westlock and the hon. Member for Peace River and the hon. member from Brooks will not remember that this is exactly the same legislation wearing a different dress that they rejected at the street corner over a year ago. I would urge all Members of this Legislative Assembly not to put aside the laws that this Legislative Assembly has passed simply on a regulation that will supersede a law.

I return to my opening comment. In trying to do some good tonight, I want to remind all members on a nonpartisan basis that it is the regulations that are subordinate to the laws of this land, not the laws of this land that are subordinate to regulations. Do

not feel that because today you are in government and you can pass and ram this legislation through the lesser numbers of the Official Opposition, that it is right. It is not right.

I heard the hon. Member for Calgary-Montrose speak eloquently some months ago about how important it is for people to know what the law is and have freedoms and be able to understand the laws and respect them and live up to them. Well, how can that be the case if, as I said earlier, by regulation passed by one man or an order in council those laws can be superseded? Earlier today, across the entire width of the front row of the government benches, they stood up and filed numerous filings, Mr. Speaker, all prefaced, all of them relevant, all of them appropriately filed. We'll forget that some of them are required by law to be filed. They all stood up and took credit for open and accountable government. But it is what is not filed in here that is frightening to the Alberta public, not what is filed in here, not what is debated in here.

MR. PASZKOWSKI: Ghosts, ghosts, ghosts.

MR. GERMAIN: The hon. minister of agriculture wants to engage in the debate from his seat, Mr. Speaker. I must say that he could not support any legislation, I would think, that would put a regulation ahead of a law that's been debated in this particular Legislative Assembly. It is simply wrong, and it ought not to be allowed. A message should be sent to the government by this Assembly when we vote on this piece of legislation that we want to integrate our laws with free trade, but this is not the way to do it. This is the same concept that the Minister of Labour, feeling the concerns of Albertans a few months ago, withdrew. Do not let anybody talk you into believing that it is something different.

MR. DAY: Well, Mr. Speaker, what started out as a very positive, constructive series of remarks by the members opposite ended, I have to say, in a dismal and disjointed and disappointed diatribe whose paranoia was only exceeded by its abysmal ignorance.

I would like to bring us back to reality and to some of the comments by members opposite, except for the Member for Fort McMurray. The reason for all of this, the reason for this Bill, if we can get this in context: we have an agreement with the United States and Mexico, a free trade agreement which, the statistics show clearly – and all members are recognizing that – has been very positive for Alberta, as we knew it would be. However, in the process of that agreement being constructed, there were concerns, legitimate concerns from the business community, from the labour community, saying that competition may be unfair because there are certain laws in Alberta related to labour and related to the environment which other countries, maybe Mexico, maybe the United States, don't have. I'm just saying this as an example. I'm not pointing to other countries as not having regulations because I don't want to create an international incident on my remarks. I respect the other countries in this agreement, but it was brought forward that for instance – what about child labour laws? What about minimum wage laws? What about safety and occupational health? Recognizing that one country cannot impose those laws on another but can through a variety of persuasive measures and pressures bring those laws to bear . . .

9:20

MR. GERMAIN: On a point of order.

MR. DAY: I see the member across is sensitive.

THE ACTING SPEAKER: On a point of order, the hon. Member for Fort McMurray.

**Point of Order
Questioning a Member**

MR. GERMAIN: Although I didn't object to my opponent name-calling me, under *Beauchesne* 482, Mr. Speaker, I wonder if the member would entertain a question.

MR. DAY: Mr. Speaker, from any other member opposite except for the one who just rose in his place, until I see a more demonstrable respect for this Assembly and for the legislation that he purports to have read. Then I would gladly acknowledge the questions.

THE ACTING SPEAKER: Is the answer yes or no? Would you accept a question?

The answer is no, hon. member.

MR. GERMAIN: Point of order, Mr. Speaker.

SOME HON. MEMBERS: Citation.

**Point of Order
Allegations against a Member**

MR. GERMAIN: Section 23(h), (i), and (j). I thought I heard this member say that I show no respect for this Legislative Assembly. I must tell you and I say on the record and I say in *Hansard* that I have the highest respect for this Legislative Assembly, and while it's fine for the member to engage in the spirit of debate, there was nothing either unreasonable or irrational in the comments I made about a Bill that puts regulations before the law. I said nothing about this Assembly, and I feel that the member should be called to order and asked to apologize.

THE ACTING SPEAKER: On the point of order, the hon. Government House Leader.

MR. DAY: No. I'll let you rule on the point of order, Mr. Speaker. I was just continuing.

THE ACTING SPEAKER: Well, obviously in the last few minutes we've wasted a lot of good time in this House on both sides. Seemingly there is a disagreement. Everybody's calling order to each other. I think this House wants to get on with the business of the House, and I would ask that the Government House Leader continue his remarks in a positive manner.

**Point of Order
Questioning a Member**

MR. DECORE: A point of order, Mr. Speaker. Will the hon. minister allow a question from this member?

MR. DAY: Certainly, Mr. Speaker.

Debate Continued

MR. DECORE: Well, Mr. Speaker, I'd like the hon. minister to reconcile for this side of the House the statements that have been made by the minister of the environment who says that by the agreement relating to the environment there is no way that the laws with respect to the environment could in any way be reduced in dealings on the free trade scene. Why, then, Mr. Minister –

and I presume the Minister of Labour is going to tell us the same thing with respect to the labour scene – do you need the whole of part 2? There won't be any inconsistencies because you say, both of you, that you're going to live up to and adhere to the laws of labour and environment. So delete it.

MR. DAY: It's a good question, Mr. Speaker. As a matter of fact, I noted the question when the Member for Edmonton-Glengarry raised it in his initial remarks. I will address that precisely, and if it's not to his satisfaction, I hope he will raise it again in committee so that we can really get down to the detail of it.

Just before I do that, it's important to remember that in striking this agreement we did have these concerns about other jurisdictions possibly not having even any kind of regulation related to – and I'm speaking now about labour laws, child labour laws, minimum wage laws. So we cannot impose as a government, obviously in Canada or Alberta, laws on other countries, but we can use certain persuasive measures to move that process along from within. One of those was to address and in fact call them – that is, the other questions – to face when they said: we do have regulations. For instance, Mexico saying: "We do have child labour laws, and we do have minimum wage laws. Now, they may not be the same as yours in Canada, but we do have them." We felt it was a very positive first step to say: "Okay; you say you have those laws. Print them, let us see them, and whatever laws you have, we require you to live up to them. And whatever laws we say we have – they don't have to match yours – at a given time, we will live up to them."

So in fact that has caused the United States, the country of Mexico to say yes, and Mexico to say, for instance, "We have child labour laws. Under this age, children will not be permitted to work; it will be against the law." If it was found that they did have or were incorporating children of that age into the workforce, we then have an international agreement that they have also signed which we could take to a panel and say: "They said, according to their laws, that children under this age would not work. They're working. That has to be dealt with."

Does it bring them to our standards? Not necessarily in one swift movement, but it does at least cause them to make known to their people and internationally to other people that they do have laws, they do have standards, and they will be held to account on those standards.

Now, getting to the Member for Edmonton-Glengarry's question relating to environmental standards or labour standards, we are not compelled in any way to lower either environmental standards or labour standards because of a change of law in those areas in the United States or Mexico. This agreement, this Bill does not in any way compel us to do that. However, in the striking of any international agreement, be it investment or otherwise, when countries agree and their negotiators agree in principle to something – and the member would know this – they don't have the time, they don't have the resources to analyze every single regulation within every jurisdiction. They agree in principle to international agreements, but then to hold fast to those principles, they say to one another: we will now go back, look at our legislation and see if there's anything consequential to this agreement that needs to be changed to make it consistent. That's something that's done as a matter of course. It's done as a matter of course internally when legislation is developed, and then many times there are consequential changes required that are not always readily obvious or readily observable. That's why we have, in

direct answer to the good question from Edmonton-Glengarry, under part 2 a section talking about this regulation changing.

Now, in all sincerity we felt we were going the extra mile here in developing this. We could have just said that if there's an inconsistency, we'll come up with a regulation and change it, and it will be done, and leave it forever. But the Bill clearly says no; we'll make a change to grant and to bring into form the consistency. The reason section 2 is here – it says that that regulation that might have to be made quickly, even though people would be aware of it, still has to be made quickly to bring into consistency the trade agreements. We're not going to leave that ever unaccountable. We're going to say it only stays there until – for instance 2(a) says until “an enactment” – an Act comes along that actually resolves that inconsistency. So in 5(1)(c) there's no period where it says “in which case the regulation prevails.” Boom. It doesn't leave it there. It says no; it will only deal with the inconsistency and only until certain things happen, and that's why section 2 is necessary. It says we'll deal with it either through an Act or, for instance in part (c), to keep any government, us or others, from having a regulation and then saying you can never contest this; we're just going to leave it. It says that if you the government don't fix that regulation with an enactment, then it's going to be sunsetted automatically in two years, and that's to protect a government like us or another government from putting in the regulations saying, “There; we've done it. Don't come back; don't talk to us. We're just leaving it.” That two years is a safety clause. Hopefully it would be dealt with before that particular time.

The members for Edmonton-Meadowlark and Edmonton-Glengarry talked about minimum wage differences between Newfoundland, Alberta, Quebec. With respect, that is irrelevant to this Bill. Newfoundland, Quebec, Ontario can set their minimum wages wherever they like, as can Alberta. We would only set minimum wages or other labour-related items in relation to what Albertans want, not what's being demanded by the United States or Mexico or not moving down to their standard. We set it for Albertans, and all we're required to do in this agreement, wherever we set that, is live up to it and enforce it. That's what's required. So disparity in provinces only reflects the fact that these are areas of provincial jurisdiction.

It was interesting in the development of NAFTA – before the present federal Liberal government this was already in the works, obviously, and being moved along. It was in discussion with the then federal minister who was in charge of the NAFTA. It was Alberta and Quebec, who is a very strong ally when it comes to provincial jurisdiction – obviously some people in Quebec are pursuing sovereignty outside of the Canadian framework. We think it's achievable within the Canadian framework. It was Quebec and Alberta, myself as minister here and the corresponding minister in Quebec, who made the point very clearly to the federal minister. We said, “Federal government, you cannot sign the NAFTA and pull in labour and environment; those are provincial jurisdictions.” That's why these side agreements came to be. In discussions with Mexico and the United States and Canada it was agreed: in Canada, different than in Mexico and the United States, it's provincial jurisdictions. So those international negotiators at the time said, “Do you, Mexico and the United States, agree that we can move NAFTA along, and we'll settle these other issues in a side accord?” That's how it came to be, and that's the purpose of this particular legislation.

9:30

In terms of questions raised by the hon. Opposition House Leader, especially as related to the Court of Appeal, again in

international disputes, just like the existing FTA – not NAFTA now but the free trade agreement – when there's a dispute, the softwood lumber dispute for instance, that goes immediately to an international tribunal. It does not go to a provincial Court of Appeal. That's the process by which these are settled. We agree on it beforehand with some risk. The risk is we might be ruled against. Another country might actually rule that we're not living up to our standards. That's a risk we take as a country, saying that we are supporting our standards. So the Court of Appeal is not involved in that process any more than in, for instance, the free trade agreement, either in the regular process or the fast-track process.

To the Member for Sherwood Park: we already can change labour and environment laws. We have that ability right now. Again, we would only do it to reflect the needs of Albertans, not because Mexico or the United States are telling us to do that.

The Member for Edmonton-Meadowlark talked about our restrictive labour laws, et cetera. It is interesting. I feel almost schizophrenic at times because I have some members telling me our laws are very restrictive and very binding on labour and don't allow free movement of our labour unions, and I have other members suggesting to me that our laws are too restrictive on business. So it's an interesting position to be in. But, again, any change there that we would do would strictly be because of what's wanted by Albertans. Whether it's right-to-work legislation, anything like that, it does not relate at all to this particular agreement. All the agreement says is that whatever laws we do have, we will maintain and enforce them.

I think that actually in some of those comments I did address some of the concerns raised by the Member for Fort McMurray, and certainly I look forward to ongoing discussion with all members opposite, including the Member for Fort McMurray, who does get a little riled up from time to time. I look forward to his good comments that I'm sure we'll see during the committee process, Mr. Speaker.

MR. DICKSON: Mr. Speaker, one would hope that after the Minister of Labour got up to give an explanation, that would clarify, address the issues that had been raised by those who have questioned elements of the Bill, but after listening to the proffered explanation from the minister, I'm really baffled now. It appears to me that here a senior minister of the Crown still doesn't quite understand the distinction between what's called subordinate legislation and legislation passed by a legislative body. That may be understandable when we have a government that has a history of doing subordinate lawmaking in secret.

It's also the reason why not only Albertans but members in this Chamber have to be concerned when we see the provision in section 5(1)(c). To me you have an absolutely perverse situation here where by regulation what you have – and it doesn't limit it in the fashion the Minister of Labour suggested. In terms of making legislation in this province congruent with an international trade and investment agreement, by secret regulation this government can downgrade, dilute, reduce basic protection that Albertans and Alberta workers have now. That's what this provides for, and despite that explanation we heard from the minister, his explanation does not, with respect, address this basic concern.

Surely to goodness, if Albertans are at risk of seeing a diminution in basic standards, in employment standards, and in worker protection, that only can come and should only come by Act of the provincial Legislature, not by a minister acting in secret with bureaucrats in the department. That's supposed to be what

democracy is about. That is supposed to be what a parliamentary democracy is about. The Minister of Labour, with respect, from his comments seems to either not appreciate or he elects to not recognize the difference between subordinate legislation and legislation passed by a legislative body. The regulation is an executive function. It's done in secret.

Now, if in fact the minister were able to make a commitment that we'd fully implement the recommendations of the Zander committee report and ensure that subordinate legislation is reviewed by an all-party panel, such as the Standing Committee on Law and Regulations, I expect that many of my colleagues might have a much greater measure of comfort in terms of looking at this again and saying: okay; maybe this is an expeditious way of advancing the commercial and labour interests of Albertans.

DR. WEST: Are you saying that you as a politician can't be trusted? Is that what you're saying, that you're not trustworthy?

MR. DICKSON: What I'm saying, hon. minister of transport, is that secret decisions made by you and your cabinet colleagues, not subject to scrutiny by the Legislative Assembly, not available to question before the fact, are fundamentally flawed.

It seems, Mr. Speaker, that not only the Minister of Labour but now the minister of transportation has the same difficulty in understanding the difference between what the cabinet does as a gang when they sit down in secret to make regulations and what we all do here with a written record in *Hansard*, with the media available to hear and to witness what goes on, with members of the public able to come in and see. Hon. minister, they don't do that when you draft regulations, they don't do it when the Minister of Labour drafts regulations, and that's the problem with this section.

So it seems to me that . . . [interjections]

THE ACTING SPEAKER: Order. Seemingly the Minister of Transportation and Utilities caused this to start, and now it's going beyond anybody being able to hear. Would everybody just be quiet, and let the hon. Member for Calgary-Buffalo finish his remarks.

MR. DICKSON: Thanks very much, Mr. Speaker, for giving that admonition to the minister of transport.

Mr. Speaker, I think the point that has to be made and has to be repeated apparently time and time again is that the government has really two options if they want to get the support of all members for this kind of legislative initiative. One would be to say that if we're going to change the laws in this province, if we're looking at potentially a degradation in rights that Albertans have and protection that Albertans have, there's only one forum where that can properly and fairly be done, and that's this Legislative Assembly.

Failing that, and I offer this as a friendly suggestion to the Minister of Labour, if he wants to be able to have the advantage of doing it by regulation – and we all recognize that there are some advantages in terms of time and flexibility and so on to be able to do that – then make a commitment. Make a commitment now. Make a commitment before we come to a vote on this Bill at second reading that the Standing Committee on Law and Regulations will review any draft regulation before it becomes law under this Act. If we have that kind of certainty – we have opposition members on that committee who I think have the

confidence of the opposition caucus – it's a neat and an easy way out. But if the minister and the cabinet and members opposite decide they're not prepared to accept either one of those proposals, then I think many of us have little choice but simply to vote no, sir.

Thanks very much.

9:40

THE ACTING SPEAKER: The hon. Member for Medicine Hat to close debate on second reading.

MR. RENNER: Thank you, Mr. Speaker. It's been an interesting evening, to say the least. We've had some good discussion, and there have been some questions brought forward that I intend to deal with on a very specific line-by-line basis when we get to the committee stage.

There are a couple of issues that came up this evening that I think need to be clarified. I think we got our discussion perhaps going a little bit beyond what the Bill is all about, and I want to clarify a couple of issues about this Bill. It relates to comments made by a number of members opposite, but I think the Member for Lethbridge-East probably summarized as well as anyone the document itself.

Although it's in three sections, there are really only two parts to the Act. The first part of the Act deals with future agreements. It deals with the fact that the federal government, not the provincial government, in the future will inevitably be negotiating international trade agreements. When the federal government does negotiate a federal trade agreement that has implications on provincial jurisdiction – and this is the document that we have – we need to be able to deal with those on a timely basis.

What this Bill says is that if Alberta agrees with something that the feds have already negotiated, then this Bill will give cabinet, the Lieutenant Governor in Council, the ability to bring interim regulations into place to bring any inconsistencies in Alberta law into agreement with that international trade agreement. It also says that those regulations will have a very clear sunset clause, and every one of those regulations must come to this Legislature and be debated.

MS LEIBOVICI: Let them come first. You said that you need to do that.

MR. RENNER: I'm not going to be debating back and forth, hon. member. You had your chance, and you didn't bring that part up. We will certainly have opportunity to discuss that when we get to committee stage.

Now, there is a second part to this Act that deals with two very specific side agreements that have already been negotiated. Part 1 deals with future agreements, gives us the legislative ability to deal with future agreements; the second part deals with the two very specific side agreements to NAFTA. Those side agreements have nothing whatsoever to do with lowering standards in the province of Alberta. In fact, those agreements make it very clear that Alberta will maintain its jurisdiction, will not be subject to coercion from the other signatories to the agreement. Alberta agrees to live up to the laws of this land. If the laws of this land are changed, there's only one place they can be changed, and that's in this Legislature by this Legislative Assembly. That is all.

The reason that part 3 exists – and I explained that in my opening remarks – is that Alberta and Canada under the terms of the side agreements have agreed to change laws to permit filing of the arbitral decisions under the side agreements without domestic appeal in Canadian courts. The reason we did that was

to avoid getting into any kind of a dispute where we get into trade sanctions. We do not want to get involved in a trade sanction war, in a tariff war with some of the other signatories to this agreement that could well be a very prolonged dispute. In the end, although it's even decided in our favour – the arbitral decision says no; we were not at fault in this – the process takes so long that we have been damaged in a very fundamental way as a result of that dispute, and we very clearly want to keep those disputes out of trade sanctions. We have said: “Fine; we will agree that this arbitration committee will decide if Alberta, if Canada is found to be at fault. Then we will take it straight to our courts and the courts will be able to levy any fine that's imposed by that decision.” It keeps us out of trade wars.

With that, Mr. Speaker, I would like to move second reading of this Bill, and I look forward to further debate at committee.

THE ACTING SPEAKER: The hon. Member for Medicine Hat has moved second reading of Bill 44, International Agreements Implementation Act. Does the Assembly agree to the motion for second reading?

SOME HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed, if any?

SOME HON. MEMBERS: No.

THE ACTING SPEAKER: Carried.

[Several members rose calling for a division. The division bell was rung at 9:45 p.m.]

[Ten minutes having elapsed, the Assembly divided]

For the motion:

Ady	Fritz	McClellan
Amery	Gordon	McFarland
Beniuk	Haley	Mirosh
Black	Havelock	Oberg
Brassard	Herard	Paszkowski
Burgener	Hierath	Pham
Calahasen	Hlady	Renner
Cardinal	Jacques	Severtson
Coutts	Jonson	Shariff
Day	Kowalski	Taylor, L.
Doerksen	Laing	Thurber
Dunford	Langevin	West
Fischer	Lund	Woloshyn
Forsyth	Magnus	Yankowsky
Friedel	Mar	

Against the motion:

Abdurahman	Decore	Nicol
Bracko	Dickson	Sekulic
Bruseker	Germain	Taylor, N.
Collingwood	Leibovici	Van Binsbergen
Dalla-Longa		

Totals:	For - 44	Against - 13
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[Leave granted; Bill 44 read a second time]

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

