[Chairman: Mr. Schumacher] [8:39 a.m.]

[The first nine minutes of the meeting was not recorded due to technical difficulties]

[Subject under discussion: Bill Pr. 19, Calgary Assessment of Annexed Lands Act, 1987]

MR. CHAIRMAN: . . . so that you couldn't be taken out unless you had made an application for a development permit. Is that . . .

MR. ROSS: Well, again, maybe there has been protection provided, but from what I understood, that land designated as I-4 would have to go ahead and take out a redesignation of the land before a permit could be taken out because it's nonconforming, agricultural . . .

MR. CHAIRMAN: Is that a misunderstanding?

MR. ROSS: Also, you'd have to go through a development permit as well, which in effect would trigger the land coming out of the order.

MR. FACEY: I can only repeat myself, Mr. Chairman. Mr. Ross doesn't understand the situation very clearly. He is still back in the time of the LAB orders and hasn't brought himself up to date with the amendments made by cabinet.

Under those amendments, as long as his development permit is simply related to his agricultural pursuit, then that will not trigger him coming out of the order.

MR. CHAIRMAN: Thank you. Mr. Musgrove.

MR. MUSGROVE: Well, Mr. Chairman, I've sat here getting more confused all the time about this. I've had some experience with planning boards, and my experience has been that they actually try to confuse people, to prove that everybody needs a planner. Now, I'm surprised at the city of Calgary not bringing the ratepayers completely up to date on what's happening with these issues. And the thing that bothers me about this is that this is what the people working for the planning board for the city assessment department do for a living. They can't expect every ratepayer to know all the rules of the game. I'm surprised that they don't keep everybody, or particularly the people who are affected by this, with the simplest type of rules possible so that they don't have to go through all these legal documents and hassles to understand what is happening with their own property.

MR. CHAIRMAN: Mr. Facey.

MR. FACEY: Mr. Chairman, all I can say to that is that the issues Mr. Ross is bringing forward relate to this I-4 land use district. The I-4 land use district was a direct result of bringing in a new land use bylaw pursuant to the 1977 Planning Act. That process was a three-year public participation process, which ended up as a public hearing before city council. At that public hearing all the citizens' groups and all the developers spoke in favour of the new land use bylaw and the new districts it was creating. Council didn't kwow what hit them. They had never had an occasion where both groups, which were usually opposed to each other, were speaking in favour. I don't know what more we could have done.

MR. MUSGROVE: Well, obviously it's not well understood today.

MR. CHAIRMAN: Mr. Wright.

MR. WRIGHT: I think it's been said, but I'll just put it in a nutshell. What you're saying is -- correct me if I'm wrong -- that you made a promise to Mr. Ross which is unnecessary to keep now because the cabinet did it for you.

MR. FACEY: That's perfectly correct, Mr. Wright.

MR. CHAIRMAN: Mr. Ross.

MR. ROSS: I appreciate what's been said here. There are other concerns relating to the same matter insofar as development permits on the existing operations. Why should they have to be taken out when, under the board order, all that would've had to have been taken out was a normal building permit? Now you must go through all the process again, the extra paperwork and the fees of going through the development permit when you're already having an existing operation and merely just adding to it, whether it be a pump house or a greenhouse or a Quonset building or whatever. Why would it be necessary to go through all this process of development permits when a building permit application should be the simplest way to handle it?

MR. FACEY: Mr. Chairman, that has nothing to do with the Local Authorities Board orders, assessment, Bill Pr. 19, or any of that. It's totally irrelevant. That is a planning matter. It has always been that way. In the past 20 years when I've been in the city, the only buildings you didn't need a development permit for and you'd go straight to a building permit were single-family houses. But for all these others you required development permits, and that is standard in any city. I'm afraid Mr. Ross is just ill informed on that matter.

MR. ROSS: I felt that if I had the correct designation on the land, either agricultural or UR, then those were the prescribed uses of that designation and therefore only a building permit would be required.

MR. WRIGHT: A point of order, Mr. Chairman. I do believe that as this is an argument between . . .

MR. CHAIRMAN: I concur, Mr. Wright, and I'd ask Mr. Chisan to resume his presentation.

I think, Mr. Chisan, Mr. Ross, Mr. Macpherson, and everybody else concerned, you may find this arbitrary today, but this matter is going to be concluded at 10 a.m. CFCN wanted to make summing-up statements, and it is now 9 a.m., so try to be as expeditious as possible, all parties. Thank you.

MR. CHISAN: Good morning, ladies and gentlemen, Mr. Chairman, observers, members of the Legislature.

Before I start, I think because we've just heard quite a bit about all this business of this decision and the amendments that were put in, I'd like to draw to your attention that the purpose of the city's application to the Local Authorities Board was to remove ambiguities and to provide clarity. As you have witnessed before you, there is still a lot of disclarity and ambiguity, and

the landowners still don't know where they're at, and there's some question whether the city knows where they're at, because they're not willing to stand behind the offer that they originally made. It's ironic that we go through this whole process and we end up still in a state of confusion.

Let me just start now. In hopes that maybe I can keep things a little bit more brief, I would like to ask the city a couple of questions. I think that will shorten what I have to say considerably because, as I go through the record -- I wasn't here on each occasion, particularly on May 6 I wasn't here -- there are discrepancies there that I would like to get clarified.

At the beginning of the hearings on May 6, Mr. Facey went into the particulars and gave the committee a long list of figures as to how the city arrived at the amount of potential loss. In one particular category he made reference to where the loss is going to be $16 million. He makes reference to 21 properties, but he says: "I would note that this category includes the shopping malls." Later on on that same day he makes the statement that the shopping malls have always been paying their taxes at the city rates.

Now, I would like to know categorically -- and I think the one person that would know, the one person, under statute, who is the assessor, and that's Mr. Judd here -- if any of the malls whose land were originally under the orders, have they ever been put back under the protection of the order, and have they ever been notified?

MR. G. ANDERSON: Mr. Chairman, I guess I just have one concern. The city is prepared to answer these questions, clearly. The difficulty I have is that the city has been subjected to cross-examination. You advise us that we are short of time. You advise us that CFCN and ourselves want to make a final summation. I think all of us are waiting with bated breath not to hear Mr. Chisan question the city as to what concerns he thinks he has; I think what we're all waiting to hear is what Mr. Chisan finds objectionable to Bill Pr. 19. Otherwise, we would like to get Mr. Chisan's case, as I'm sure your committee does, not to turn -- excuse the expression -- into a three-ring circus. But Mr. Chisan is here to make his presentation. We want to hear it. We may in fact want to question Mr. Chisan. But I think what we're waiting to hear is Mr. Chisan's case, and I'm sure your committee is as well.

MR. CHAIRMAN: Mr. Chisan, I think that is the proper procedure. The city made its presentation. It was open for cross-examination. I don't think I'm going to reopen the city to further cross-examination at the present time. We want to hear your concerns.

MR. CHISAN: I understand that. In that case, I'll have to deal with that issue, and that will take considerable time. But I will deal with it.

MR. CHAIRMAN: You may be cut off, Mr. Chisan, so I would like you to use your time as expeditiously as possible, because you have fair warning about our time constraints. I don't want anybody to leave here saying they had no chance to have what they wanted to say said.

MR. CHISAN: When the city raises the calamity of $42 million, I think that should be addressed. If I could have gotten a clear answer then on a couple of questions, I wouldn't have had to . . .

MR. CHAIRMAN: Mr. Chisan, it's open for you to tell us that you're not satisfied with what the city's said, and that's your view. We understand that. But you can say that in a few words. Now, I would ask you to proceed as expeditiously as you can, because in my view you're not advancing your case by trying to fill up time.

MR. CHISAN: I'm not trying to do that; I'm trying to hurry.

MR. CHAIRMAN: Mr. Chisan, could you enlighten the Chair as to what is being distributed here?

MR. CHISAN: Well, in due course I'll do that, sir.

MR. CHAIRMAN: Well, why can't you do it while it's being distributed? We have a time problem.

MR. CHISAN: Before I address that material and carry on with where I left off last time, I'd like to make a few opening comments of objection to Bill Pr. 19 so that it is clear that my presentation is in no way, and my participation here is no way, a waiver of those objections.

I would draw to your attention first of all that there is no way in which Bill Pr. 19 can be classified as a Bill that is about peace, order, or good government. I'd also say that I doubt the propriety, and I would object to the use of a private Bill to essentially outlaw the rule of law to a specific group of taxpayers. I think the rule of law is quite a fundamental principle, and I think there's quite a bit of doubt that that's the purpose of a private Bill.

I also doubt whether a private Bill should be used to settle summarily a dispute, especially when notice is to a few, and this is a specific Bill to answer a specific dispute involving specific individuals. In that event I think notice to all is imperative.

As some people may have noticed, this Bill came up for first reading and it was introduced simply as a Bill . . . I'll read it. "The purpose of this Bill is to provide that certain Local Authorities Board orders, as amended by cabinet, be confirmed by statute." I would suggest to the committee that that is not at all the case. The purpose of the Bill is to outlaw the rule of law and to cover up potential, willful, unlawful assessments. Like, I would have no trouble with this private Bill at all if we put two words into each of the sections, section 1 and section 2. The way it reads now, section 1 says, "the provisions of Local Authorities Board Orders . . ." Now, if we put one little word in front of "provisions," I would have no objection to this private Bill. Let's put in there one little word. Let's say, "the lawful provisions." If we put the word "lawful" in there, I have no problem with it.

Under section 2 it says, "all assessments for the [1985] taxation year." If we insert in there, "all lawful assessments," again I have no problem with this Bill. But if you're going to leave out the word "lawful," then essentially what we're trying to do is outlaw the rule of law.

So I start from the base that these statutes, what's on the books now, mean something, and that this is going to mean something too. I start out also from the base that the rulings of our courts -- the Court of Queen's Bench, the Court of Appeal, all section 96 courts; that is, all federal courts under section 96 of the Constitution -- apply in Alberta, and they're accessible for a price for anyone with standing. I would also suggest that the rulings of the Supreme Court of Canada apply, and I take the presumption that in this legislation, as in other legislations

across the Dominion, the presumption that legislators act lawfully applies here also.

Let us also recognize that the city is a delegate of the province and that there has been an ongoing dispute between the city of Calgary and the annexed taxpayers and that this dispute has been brought by Mr. Stewart before this Legislature. Having said that, I'd like to carry on from where I left off last day with regard to the assessment of my property. This little piece of paper, if everybody still has it -- off of the top there, a few comments. We'll just run through this quickly. As I indicated last time on this property, it's stayed constant; it hasn't changed ever. There are no improvements, and there are no services. It has been assessed as farmland and taxed at the farmland rate for all the years up to and including 1980. The zoning was changed on the land by the city unilaterally when they changed a whole number of properties to meet the new bylaw 2P80. And the use for the lands: there is grass growing on the land; there is some beekeeping activity, and under the permitted uses and keeping in mind the restriction as to the size, there are no other uses permitted by the city.

There has been a number of applications requesting a permit to build a single-family residence, and that has been repeatedly denied on the grounds that the size of the parcel is too small. And for all the years which go across the top, 1980 to '86, appeal notices were submitted to the city assessor for the court of revision and the Alberta Assessment Appeal Board.

So there are two titles of this property, as shown on the far left-hand side. The one is for .87 acres, and the other one is 1.37 acres. As is shown there under 1980, the assessed value of the first parcel is $200 and the taxes were $30. For the second one it was $440 with a tax of $66. Now, 1981 was the year that Rocky View did a reassessment, and so this property was subject to reassessment also. As you can see, the $200 became $64,470, and the $440 became $96,330. Under 1981, under the appeal part, that's always referring to the appeal to the Alberta Assessment Appeal Board. It did go to the court of revision, and they did confirm it. Actually, it was taken to appeal it, and the city assessor refused the appeal on both of those parcels on the grounds that evidently he felt I was out of time, notwithstanding the fact that he had mailed the decisions of the court of revision within a day or two of the end of the mail strike.

So anyway, under 1982 we have the same assessments, and that did go to appeal, the Alberta Assessment Appeal Board, on February 8, '83. On that occasion they confirmed the first $64,470, but on the second parcel, which is over one acre in size and therefore meets the qualification of farmland, they reduced that to $400. I would like you to know that that was on February 8, '83, and that was an oral decision given right there on the spot. I would like you also to know -- and you can check it under the Municipal Taxation Act that's before you. Under section 61(2), it says:

> When the Appeal Board renders a decision, the municipal secretary, or the assessor in the case of a city, shall forthwith alter or amend the roll according to the terms of the decision.

That is important because in Calgary, as in many municipalities, the council passes a bylaw to accept for the future year the assessments of the previous year.

This decision was on February 8, '83. There was plenty of time. If that roll had been amended to the $400 figure by the Assessment Appeal Board, there was plenty of time to have that assessment shown for 1983. But no, that doesn't happen. In 1983 the assessment goes back up, not only to the previous high but goes back up to $120,240.

I think it's important when someone comes before this committee and wants some statute put into effect on their behalf that they have shown diligence in observing other provincial statutes. The complete disregard of section 61 is shown here. I would suggest it is totally unacceptable, and it bears upon my hardship and the hardship of other people if the city assessor ignores the statutes. Surely in between February 8, '83, and October 30, when the taxes were due for 1983, there was enough time in there for the city assessor to amend the roll and to reduce the taxes accordingly. I'll leave you to decide that. The decision was given on February 8, and the taxes for the next year were due on October 30. There's quite a few months in there, if the assessor has any intention of observing the statute, to amend the roll and to reduce the taxes accordingly.

Anyway, 1983 started all over again. Go back to the court of revision; go back to the Assessment Appeal Board. This time the Assessment Appeal Board, although the law had stayed constant and the land has stayed constant, they reduced the assessments, as you see there. And the dates: it was heard on March 21, and the decision was received -- they reserved their decision, but it was received by the city on May 16, and it was reduced, as you see.

But again, 1984. It doesn't matter what the appeal board had said, but the assessment's back up again. It goes from $24,000 back up to $58,000; goes from $36,000 up to $112,000. Again I would suggest that there's plenty of time between May 16, when the city received the decision, and August 31, when the taxes were due and payable, for the city to have been amended their roll. But it doesn't happen.

So in 1984 we go back to appear again. This time the court of revision reduces it back to $24,000 in the one case and $36,000, as you see. But then in that process the city says, "Well, we're not only going to aggravate you here; we're going to split this into six notices and six assessments," as I have noted there, and also, under the second, to split it into nine notices of assessment and taxation. Now, on the page that I gave you last time, if I could just find that here -- it's the little one with the map right up at the top. The map at the top shows you the location of the property, and lots 1 to 9 have have been circled there. Although in fact on the land there's no lane there, the lane is shown on the registration of land titles. Now, if we look under Public Utilities Board order 25860, you go down to the last paragraph under (a). It says "parcel."

MR. CHAIRMAN: Mr. Chisan, I regret to interrupt, but I'm only going to be able to give you another seven minutes, so I would like you to priorize your remaining presentation at 9:30. I'm sorry to have to interrupt you, but you will then have had over 45 minutes devoted to yourself and Mr. Ross. We just don't have any more time available.

Mr. Wright?

MR. WRIGHT: If I could make a suggestion to Mr. Chisan, as far as I'm concerned, what I'm interested in hearing is his objection to this Bill, how it will adversely affect him, and unfairly so. I'm having some trouble seeing why the detailed history is necessary for that.

MR. CHAIRMAN: Yes, I would concur, Mr. Wright. I think you're going to have to really come to grips with this, because what you're talking about now is a complaint about the way the

city has managed its assessment department. We have heard that and we understand that, Mr. Chisan. We do not need to have that reiterated.

MR. CHISAN: I'm not talking here about the complaint to the assessment department. I'm talking about intentional, willful disregard of statute law. What I was just going to point out, the same thing with regard to the Public Utilities Board.

MR. CHAIRMAN: All right. Bearing all that in mind, you now have seven minutes in order to conclude that to the best of your ability. I'm sorry to have to say that I'm going to have to rule that that is the time you're going to be allowed, so the next seven minutes are yours.

MR. CHISAN: Well, it's unfortunate that the same time constraint was not placed on the city earlier. But in any case . . .

MR. CHAIRMAN: Well, now, I don't think if the record is checked you will find that the proponents have had any excessively more time than the opponents to this Bill.

MR. CHISAN: Anyway, under parcel, it does say that the parcel of land, meaning land consisting of one of more parcels, not separated otherwise than by road, public way or road allowance -- what I'm saying is that I think that's a fairly clear definition, and the city has never been able to understand that or to apply it to my land. Yet we find applications to the Local Authorities Board that seek clarification and to remove ambiguity.

Let me move ahead in lieu of the restriction that's in place for me. You can see what happened in 1985 and also in 1986. I draw to your attention that the Alberta Assessment Appeal Board has yet to rehear 1983; they've never heard 1984; they've never heard 1985 or 1986.

Moving on specifically now to the first part of the Bill, it says "taxpayers whose lands are protected by the conditions . . . will have an unfair economic advantage over other citizens." The city of Calgary has maintained that this was $36 million. Although they did recognize that that was based on a state of mind, it was clear -- although Mr. Anderson said it was justified here -- it was based on a state of mind.

I have passed out to you this morning a page that looks like -- this page right here at the top. It has limitations of actions. If you look halfway down there, it's the commissioner's report to the budget and finance committee as of February 14, 1978. If you read the second paragraph there, at that time the assessment department reviewed the three orders in question and calculated, based on 1976 mill rates, the degree to which there's been an inequitable distribution of the tax levy . . .

MR. G. ANDERSON: Mr. Chairman, I don't like to interrupt, but we've checked all our documents that Mr. Chisan gave us. He has given us something different than he's given you, because we don't have that.

MR. CHAIRMAN: Thank you. And thank you, Mr. Chisan.

MR. CHISAN: Okay. As you can see, this private Bill deals with 20027 and 25860. The difference between the city assessment rate and the Rocky View assessment rate, if you combine those figures, was just over $1 million. That was on the 1976 mill rate. Now, one can easily . . . That's if everything comes out of the board order. At that time, in 1979, there were 1,450 parcels of land under the board order. If everything comes out of the board order, the difference between city taxes and Rocky View taxes is just over $1 million; that's in 1976. Keep in mind also that these figures were done by a different assessor. Mr. Judd was not the city assessor at that time.

Now, if you look down below, I've provided you with the mill rate for each and every year from 1976 to 1986. One can easily see the percentage of increase. If you look at '76, the mill rate was 55.73. In 1986 the mill rate was 117. The base for Calgary has stayed the same, though. It was all based on 1972 values, so there was no change in the assessment base for all those years. The mill rate increased just over a hundred percent -- well, maybe 110 or 120; what difference does it make? You should be able to take that figure of $1 million and increase it for each of those years, and I'll tell you that the difference in assessment or the difference in taxes for all the properties, if everything was taken out of the order, is less than $2 million. How they can possibly have accountants before you and say it was $42 million . . . There may be some extra money in there, but the difference between what this figure would be and what they are actually claiming is the amount of money that they have illegally and unlawfully taken from the taxpayer when they took the properties out of the order and charged them the excessive rates. But at that time, that was the difference. You can see what the report says.

MR. G. ANDERSON: Mr. Chairman, on that one point we'd be more than delighted to be able to respond to Mr. Chisan to advise him how we arrived at our figures.

MR. CHAIRMAN: Well, I think you're going to have to do that in your time for summing up, Mr. Anderson, which is going to come very soon.

MR. CHISAN: Okay. Going on to section 1 of the private Bill, section 1 is trying to make the order incontestable, and I think that's fine if you presume that the order is valid and lawful. I think, to make that clear, the word "lawful" should go in before the provision in section 1. I have no problem with it. If it isn't in there, then you have to be prepared to examine if you are trying to pass legislation to make an unlawful board order lawful. That's what I say is trying to make a law to outlaw the rule of law.

There are quite a few problems with the order made by the Local Authorities Board. I would like to have an opportunity to go into a few of those. You have before you my appeal to the Court of Appeal, and you can examine some of those at that time.

MR. CHAIRMAN: Mr. Chisan, it is now past the time that I said, and I think all I can say is that you had the opportunity to do that, if you had wished to priorize this that way, in the time that has been allotted. Therefore, I have to say that it's now past 9:30, and we must move on.

What I propose to the committee -- of course, I'm always in the committee's hands, but I would suggest that we . . . I haven't received word from CFCN that they would like to -- they have not had a chance to . . . They've given their case, they've had cross examination, but they didn't get a chance to sum up. They would like to sum up. I've suggested to them that they have 10 minutes to do that, maximum -- if they could do it in less, it would be better -- and that the remaining time until 10 a.m. would be devoted to the city for it to sum up and respond to

the criticisms and questions and queries . . .

MR. WRIGHT: If I may ask Mr. Chisan one question?

MR. CHAIRMAN: Certainly.

MR. WRIGHT: Mr. Chisan, is not the burden of your case that you consider it very unfair that the Legislature should make unlawful by statute what has up to this point been lawful and your right to take proceedings about in the court?

MR. CHISAN: Well, exactly. You know, the Local Authorities Board Act itself, it provides the statutory avenue of appeal.

MR. WRIGHT: Yes, I understand that, but is that the kernel of your submission?

MR. CHISAN: Well yes, that's right, because, you know, there are various places and various statutes that give you an avenue of appeal, and what this Bill is saying is: "You can't have those. We're not going to listen to the courts. We don't want you to go to the courts. We're afraid of the courts. We're afraid they're going to make a decision that's going to be contrary to our wishes."

MR. CHAIRMAN: I'm sorry. Any other members wish to raise any points for clarification?

Thank you, Mr. Chisan. I wonder if I could ask if you could maybe make a space for CFCN counsel, Mr. Miller and Mr. MacDonald, so they could approach a microphone and have an opportunity of being heard in opposition to Pr. 19. Mr. Macpherson, could you make room for Mr. Miller and Mr. Thompson? They would like to oppose this Bill or a portion thereof.

Mr. MacDonald, I understand that you would like to say something to the committee on behalf of CFCN before Mr. Miller winds up, and you haven't had the oath yet.

MR. MacDONALD: I have not.

MR. CHAIRMAN: Okay. Mr. Clegg will administer the oath.

[Mr. MacDonald was sworn in]

MR. MacDONALD: Thank you, Mr. Chairman. Thank you, ladies and gentlemen of the committee, for giving us the opportunity to be heard here. We are grateful, and frankly, we admire the openness of this proceeding. When we talk among ourselves after we leave, one of the things we noted was, "Hey, everybody gets a chance to come up and speak their mind," and we're glad to be able to.

We have a very simple point, really, in our submission that in some points is technical, and our counsel will speak to that in a moment, but we have a much less technical argument in reality, or in the kernel of it, to borrow a phrase. We hasten to point out that our submission is in support of much of what the city wants. In our original presentation, you will recall, we stated very clearly that clause 1 of Bill Pr. 19 poses no problem for us. We believe that lands that are either redesignated or serviced ought to come out of the orders. We have no problem with that, and we urge you to give the city what it wants in that regard. These terms were granted at the city's request, and formal legislation to enshrine them is perfectly satisfactory with us.

But in clause 2 the city makes a very strange request. In effect they're asking via clause 1 for you to approve the rules by which these annexation orders will be administered, and in clause 2 they are asking you to exempt them from those rules. Clause 2 is very severe legislation. Retroactively removing anyone's rights is an odious task to ask you to perform. Nevertheless, the city says it needs you to, in effect, hold your nose and pass this legislation. Well, we urge you to accept the city's arguments that the LAB orders should be administered according to the rules contained in them, and we further urge you to reject its request, through clause 2, to be able to ignore those rules.

Thank you, ladies and gentlemen.

MR. CHAIRMAN: Thank you, Mr. MacDonald. Mr. Miller.

MR. MILLER: Mr. Chairman, ladies and gentlemen, primarily CFCN is only concerned with the extinguishment of its legal rights. As you are aware, it has filed a lawsuit against the city in the Court of Queen's Bench of Alberta. Three weeks ago the counsel for the city characterized what I believe to be, at least in section 2 of the Bill, a shield versus something that represents the removal of rights. We disagree with that characterization. If there is a problem with section 30 of the Tax Recovery Act, that problem will continue to persist, irrespective of this Bill.

This Bill is very selective in its operation. The Bill will circumvent the Charter of Rights if section 30 would be held by a court to offend the Charter. The Bill does not in any way make a potentially invalid limitation period valid, so therefore it is not a shield. It doesn't bolster a limitation period; it removes the rights. It will remove a common law right of a party to attempt to recover a debt for overpayment of taxes if that debt is predicated on an incorrect assessment. And if the assessment is quietened, then the civic matter of a lawsuit is gone. So we think the distinction is not a correct one. The city can characterize the effect of section 2 of the Bill any way they want. The effect is that it will sidestep the due process of law.

So section 2 really does two things, insofar as CFCN is concerned: it removes existing legal rights retroactively in a situation where a party has lawfully filed a statement of claim to the Court of Queen's Bench, and ultimately it will possibly circumvent the Charter of Rights. The city at one point argued that by passing this Bill, the Legislature would only be giving effect to section 30 of the Tax Recovery Act, which was emphasized to be a law of this province. We suggest that that argument is absurd, where the city by its own admission recognizes there is potential, through precedent in other provinces, to find that section 30 is invalid. If it offends the Charter of Rights, it's offensive in law, and that is not a quirk.

Now, the basis of the city's petition seems to be the potential or the magnitude of potential legal liability which they've indicated is something in the order of $42 million. We would point out that no evidence as to how that amount was calculated has been put publicly on the table in this proceeding. If this liability is the basis for the Bill, then surely there must be some determination as to whether there is a real basis for passing this type of legislation. I think it's recognized by this committee and the participants that this is a very serious, far-reaching piece of legislation. We would submit it should only be passed in the most extraordinary circumstances, and we believe that the circumstances in this case are not of such a magnitude.

There has been no evidence that the shopping centre owners are lying in the weeds, as I think at one time it was charac-

terized. They haven't participated in this proceeding, and there has been no suggestion that they would file statements of claim.

Regarding the potential liability to the federal government, we view that as a bit of a sham argument. The federal government surely wouldn't be caught by this legislation, being provincial legislation. It's not affected by assessment. As we understand it, its payments are through grants. And surely the federal government, if it's not satisfied with the way the city has conducted assessments and thereby paid grants to the city on the basis of those assessments, can do something in future. So whatever potential liability there is to the federal government we would submit exists in any case.

In conclusion, we think that throwing the $42 million figure out really represents a scare tactic to induce the Legislature into passing some extraordinary legislation. There is no doubt that the city will bear liability subject to a court ruling on the validity of section 30 of the Tax Recovery Act, because the city didn't comply with the terms of the original PUB orders. Taxpayers are entitled to assume that the city is taxing land in accordance with the terms of applicable LAB orders. The onus should not be on the landowner or the taxpayer to be checking over the city's shoulder to make sure that the letter of the law is being fully complied with.

Section 2 represents a bailout of the city to comply with lawful orders of a lawful authority established by the laws of the province of Alberta. Section 2 also is repugnant to a system which recognizes an independent judicial system and the due process of law. Although CFCN submits that this committee should recommend that section 2 be dropped from Bill Pr. 19, if this committee has a real concern that the scenario which the city has painted will come to pass, why not wait to see if statements of claim are indeed filed which would represent the potential liability which the city has tried to suggest. Don't extinguish existing legal rights because the city is concerned that there is some potential liability, that parties are waiting in the weeds. Let's see if in fact there is a problem, and then let the Legislature determine whether the problem is of such a magnitude that it's in the public interest of the province as a whole to pass this type of legislation.

Ladies and gentlemen, thank you for hearing us and your consideration.

MR. CHAIRMAN: Thank you, Mr. Miller.

Mr. Wright.

MR. WRIGHT: Section 30 of the Assessment Act, is it?

MR. MILLER: The Tax Recovery Act.

MR. WRIGHT: The Tax Recovery Act -- sorry -- is the six-month limitation, I take it?

MR. MILLER: That's correct.

MR. WRIGHT: And the attack on that has already been made in the statement of claim filed by your clients.

MR. MILLER: We haven't pleaded the Tax Recovery Act in the statement of claim. That's been raised as a defence by the city in its statement of defence.

MR. WRIGHT: Yes, but the issue will be joined on the basis of the Charter of Rights?

MR. MILLER: That's correct.

MR. WRIGHT: And of course the passing of this Act, however much it may be intended to quieten that assessment, will still be amenable to attack on the basis of the Charter of Rights even if passed, would it not?

MR. MILLER: I'm sorry, I . . .

MR. WRIGHT: Even if this Act is passed, you still have a Charter argument, don't you?

MR. MILLER: That's something that we certainly have to consider.

MR. WRIGHT: But you have some basis for pursuing that attack, in that Ontario case where a similar length of provision, anyway, was thrown out.

MR. MILLER: Let's say that if this Bill or the legislation arising from this Bill were found to be valid, then I think there would be extinguishment of legal rights and we wouldn't be into the Ontario type of argument. It wouldn't reach that point.

MR. WRIGHT: That case was the six-month limitation for suing or notifying the city in respect of personal injury, though, wasn't it?

MR. MILLER: I understand that to be the case. In the Ontario case I believe it was a three-month limitation period; again, a very short one.

MR. WRIGHT: All right; yes. Which is some distance away from the municipal assessment, you will agree?

MR. MILLER: That's right.

MR. CHAIRMAN: Thank you, Mr. Miller. Now, members of the committee, with your permission I'll call on Mr. Anderson to sum up on behalf of the city.

MR. G. ANDERSON: Thank you, Mr. Chairman. We are delighted with the support of CFCN on section 1 of the Bill. Now if we just had Mr. Chisan to agree to the support of section 2, then much like Abraham Lincoln said, we would please some of the people at least some of the time. Mr. Facey, however, will be giving the closing comments on behalf of the city. Before he does, though, I'd like just briefly to bring to your attention the fact that the city, in its closing submission, will not be responding to the concerns of the intervenors that arise out of questions involving land use classification, local improvements, the assessment of improvements on their lands. These are planning matters that are outside the ambit of Bill Pr. 19. So in our submission we will not have and we will not address those particular issues, because we feel that they're outside of the ambit of Bill Pr. 19.

Mr. Facey, would you proceed, please?

MR. FACEY: Mr. Chairman, before I start, I should just respond to that money matter Mr. Chisan raised, the $1 million. Four events occurred which changed that. There were two reassessments in Rocky View, the Chisan and the Cirrus decisions, and those things changed the financial implications to a vast

extent.

Mr. Chairman, members of the Private Bills Committee, in petitioning for Bill Pr. 19, the city of Calgary had one paramount objective: to protect the fairness and equity of the property assessment and taxation system operating in Calgary today. During this hearing this simple objective has become somewhat obscured. We have listened carefully to the points made by the intervenors and the concerns raised by members of this committee. It is our intent to address these various matters in order that we can give you a better basis on which to sort out the wheat from the chaff in arriving at your decision.

I would like to make several points about intervenor submissions. The common trend running through the submissions is that the intervenors want to maintain or create for themselves tax advantages not available to other Calgarians, in many cases not available to their business competitors, and in some instances, benefits not available as the property has never been annexed. In general, these intervenors have already exhausted their normal remedies through the court of revision and the Alberta Assessment Appeal Board. The hearing before the Private Bills Committee should not now be used as an opportunity for intervenors to reopen past assessment rulings. The theme running through several intervenor submissions is that they should have the right to test these tax loopholes in a court of law rather than have them blocked by Bill Pr. 19.

The courts have interpreted the wording of the orders within the strict context in cases before them, and often the wider application of these interpretations has resulted in other inequities. We saw that with the impact of the Cirrus decision on shopping centres. Our purpose is to close these loopholes and achieve fair taxation and certainty in municipal finances. All the intervenors, with the exception of Messrs. Chisan, Macpherson, Ross, and Akins, operate nonconforming uses on their lands. If these nonconforming operations did not exist and these people were not permitted such uses, in applying for the necessary permits they would trigger a removal of their properties from the protection of the orders. In other words, they're already getting a free ride and they want more.

During the proceedings intervenors repeatedly alleged that the city had been willfully and illegally removing their properties from the order or otherwise taxing them incorrectly. We cannot let this allegation stand. Property assessment relies on the current rules of the game as set out in various regulations, orders, and legislation or court decisions. As these rules change, and indeed they do from time to time, the basis of assessment changes with them. When they change as a result of a court decision, for example, the city applies the new rulings across the board for all similarly situated properties.

Indeed, the irony is that had this not been the city's practice, many of the complaints heard during these hearings would not have occurred. But to not expect the city, on the basis of recent court decisions, to retroactively refund past taxes is clearly unreasonable. It would make a mockery of the municipal budgetary process and remove any notion of certainty of municipal finance. This situation is specifically recognized in section 30 of the Tax Recovery Act, which only allows for recovery of taxes within six months after payment of the money.

Messrs. Chisan and Macpherson are not affected in any tangible way by the amendments made last year. Mr. Chisan's prime objective is to roll the clock back to 1961, freeze it there, and then have these 15 city lots taxed as if they were a farming operation outside the city in that year. He wants to have his present tax bill of some $560 reduced to something under $100. I understand that Mr. Chisan is an intervenor in four other private Bills before you this session. In doing this, he appears to be following a double standard by trying to protect himself from a perceived inequity resulting from these Bills yet not hesitating to impose a larger inequity on other Calgarians by his actions against the city.

Mr. Chairman, many of the intervenors, by their own admissions, do not know if they're even affected by Bill Pr. 19 or the amendments to the orders. Rather than respond to their numerous, irrelevant points, I will simply reassure you that their present property tax position will not be altered by Bill Pr. 19. The question is not whether the intervenors are being treated unfairly, but whether the tax breaks they seek are unfair to other Calgarians.

Mr. Chairman, I would again like to draw your attention to the purpose of Bill Pr. 19, as there has been some confusion around this point. The purpose of Bill Pr. 19 is to protect and maintain a fair and equitable system of taxation in Calgary. It does this by preventing an end run around existing legislation.

The purpose of section 1 of Bill Pr. 19 is to enact by statute cabinet order 780/86 and 781/86. In doing this, it simply gives the Assembly's blessing to actions already undertaken by cabinet. It is apparent that this section is not considered contentious except by Messrs. Chisan and Macpherson.

Section 2 does not appear to be so easily understood. Its purpose, which is limited to the properties affected by the orders for 1985 and earlier, is to reinforce the effect of section 30 of the Tax Recovery Act. This is a section on which those of you who have been involved in municipal government have relied for the past 20 or 30 years. Under this section, as you know, none of the intervenors at this hearing now have any right whatsoever to claim a refund of taxes previously paid. When cabinet approved order 780/86 and 781/86, they backdated them to December 31, 1985, to prevent certain property owners taking advantage of the Cirrus decision and claiming a refund for 1986 taxes. Section 2 is simply an extension of this principle set by cabinet for quieting opportunistic claims for retroactive tax refunds.

Reinforcing the effect of section 30 of the Tax Recovery Act is necessary to enable the city of Calgary to shield itself from the consequences of the fall of the six-month limitation period found in this Act. While this limitation period is legally vulnerable to a Charter attack, the shielding provided by section 2 of Bill Pr. 19 gives the city of Calgary a right to rely on the established body of law enunciated by the Supreme Court of Canada, which holds that the greater public interest must prevail. In this case, the greater public interest is to ensure that all Calgary taxpayers are treated fairly and equitably.

As a whole, Bill Pr. 19 simply protects the existing fair and equitable assessment and taxation system from those who want to exploit certain loopholes that are now appearing in the legislation, so as to gain a substantial financial windfall at the expense of some 640,000 Calgarians. Some members of this committee have indicated that perhaps the city is being overalarmist, that perhaps we are crying wolf unnecessarily. Evidence of the reality of the city's concern is the fact that several court cases have now been launched, some as recently as five days before this hearing began. In addition, we have received indications from two major shopping centre operators that they will be pursuing recovery of past taxes if the door is open to them to do so, and we would expect others to follow.

There are two main issues here, and I will deal with them separately. The first issue is: how real and accurate are the large dollar figures being quoted? The answer is: they're very

real, and they're as accurate as we can presently calculate. They represent moneys that the city will either not be able to collect in taxes or would have to refund to taxpayers in the event that the circumstances from which Bill Pr. 19 is protecting us occur.

The second and perhaps more important issue is: if Bill Pr. 19 does not proceed, what are the chances of (a) the Local Authorities Board amendments being quashed and (b) section 30 of the Tax Recovery Act being knocked down? The short answer to these questions is that any risk is too high when a total of about $43 million of taxpayers' money is at stake. More specifically, with regard to the Local Authorities Board amendments, we can say that due to certain legal technicalities relating to these amendments, there is a substantial likelihood that the court would quash the existing orders.

With regard to the six-month limitation period, the precedent of the Ontario superior court decision makes it probable that an attack on section 30 would be successful. Indeed, it may be more a question of when this will happen rather than if it will happen. But if section 2 were deleted and section 30 of the Tax Recovery Act fell, the financial implications of this one section alone would be $32.4 million. So the suggestion of CFCN to just take out that section would have major implications. The problem is that under the Charter, limitation periods for similar families of claims should be similar. The Ontario case has set the precedent by stating that a three-month limitation period for municipal negligence was discriminatory as compared to a two-year limitation period for other negligence actions. In Alberta, the six-month limitation period under the Tax Recovery Act could be seen as discriminatory compared to the six-year limitation period for debt recovery. It is acknowledged that this is a wider problem than that being addressed by Bill Pr. 19 and will ultimately have to be addressed from a provincewide basis.

Bill Pr. 19 is simply a stopgap measure to deal with a very immediate and specific circumstance with an extremely high financial impact. The city cannot wait for a more general solution to this problem and looks on Bill Pr. 19 as an appropriate measure to [inaudible] in the current situation.

The issue of rights has been a major concern at this hearing, and the following points must be made. Many intervenors commenced legal action against the city of Calgary long after the expiry of the six-month limitation period in the hope that section 30 would be struck down as being contrary to the Canadian Charter of Rights and Freedoms. Any rights that intervenors have at this point in time are purely speculative, based on a presumption that section 30 of the Tax Recovery Act will fall. Many of the intervenors have stressed to this committee that if Bill Pr. 19 were passed, it would take away their rights to seek recovery of previously paid taxes. Our response to this, Mr. Chairman, is simply that the intervenors failed to fully pursue these rights themselves at the time of their assessment by either appealing the assessment to the statutory appeal bodies or, if unsuccessful, to pursue this matter to the courts.

It is only now, when intervenors see the opportunity to piggyback on to someone else's favourable court decision, combined with the possible fall of section 30 of the Tax Recovery Act, that they are seeking to resurrect their rights. The intervenors wish this committee to give them a second chance to exercise rights they themselves themselves did not fully exercise when the opportunity was present. To allow this second chance with its attendant costs to other taxpayers would be contrary to the greater public interest.

It is submitted that the alleged rights of the intervenors to recover taxes paid several years ago must be weighed and measured against the rights of the ordinary Calgary taxpayer to expect a tax bill reflective of a fair and equitable system of taxation, rather than a tax bill requiring one taxpayer to subsidize another. The passage of Bill Pr. 19 would ensure that the speculative rights of a few are not to be exercised at the expense of the right of every Calgary taxpayer to expect a fair and equitable system of taxation.

During the course of this hearing the question of fairness has been mentioned a number of times. We are seeking to ensure that Calgary has an assessment and taxation system that is fair to 640,000 Calgarians, that each pays his fair share of municipal taxes, that similar properties are assessed similarly, and that one commercial operation does not have a competitive advantage over another due to a different tax regime. Without Bill Pr. 19, this fairness in taxation cannot be maintained. In asking your committee to recommend the provisions of section 1 of Bill Pr. 19, we're simply asking you to maintain this taxation system which provides fairness and equity. In asking your committee to recommend that the provisions of section 2 of Bill Pr. 19. We are seeking to maintain equity in the taxation system so that, for example, all shopping centres and major urban developments will be taxed on the same basis and the opportunity of some to obtain major windfall tax refunds by exploiting loopholes that may exist will be eliminated.

While the existence of these annexation orders results in a differential tax system for similar properties located in different parts of the city, this is acceptable so long as it is confined to bona fide farming operations and country residential properties as was originally intended. If allowed to go beyond this, it results in a grossly inequitable taxation system for Calgarians and one which will cost them dearly by creating an inequitable tax shift of some $5.8 million annually and a one-time refund of $32.4 million, which would represent a 18.5 percent supplementary tax increase. In light of the public outcry over the current reassessments, this would clearly be an intolerable imposition.

Mr. Chairman, the Legislative Assembly of Alberta should be concerned that the tax legislation of this province is fair and equitable for all Albertans and achieves certainty in municipal finance. We urge an all-party endorsement of Bill Pr. 19. Thank you.

MR. CHAIRMAN: Mr. Wright, just before you proceed, in fairness to Mr. Chisan I think I should point out that while he may have had some thoughts about the lake property Bills, I understand it's not his intention to be intervening on those Bills at this time, as pointed out by Mr. Facey. I just thought that I should maybe bring that up rather than Mr. Chisan having to do that.

MR. WRIGHT: Mr. Facey, how many existing proceedings, whether before the Assessment Appeal Board or in court, that the city has knowledge of would be affected by section 2?

MR. FACEY: As far as I know, CFCN, Canfarge, and CBR Cement, and Mr. Chisan are all.

MR. WRIGHT: And those are all proceedings in court, are they? It's beyond the time for assessment appeals, I guess.

MR. G. ANDERSON: Yes, that's correct, Mr. Chairman.

MR. FACEY: Mr. Chisan's is different from the other three.

The other three are also beyond the time allowed in the Tax Recovery Act.

MR. WRIGHT: I understand that.

MR. FACEY: But they have nevertheless launched appeals. Mr. Chisan's is a different situation.

MR. WRIGHT: So what it boils down to, so far as you know, is that it's only a fairly small number of existing proceedings that would be affected by section 2.

MR. FACEY: That is correct.

MR. WRIGHT: And all those proceedings are in court rather than before the tribunal.

MR. FACEY: That's right, but the results of them would probably have to be applied as we applied in the Chisan case in the past.

MR. WRIGHT: Oh, I follow that. Yes, of course. One thing did occur to me, though, and that is: I take it you agree that the courts would continue to have the jurisdiction, even if this Bill was passed, to make an order as to disposition of costs that was fair in all the circumstances of the case, including the fact that the cases have apparently ground to a halt because the statutory intervention.

MR. G. ANDERSON: That is correct.

MR. WRIGHT: So I take it you wouldn't object if there were a clause to that effect in the Bill?

MR. G. ANDERSON: Not at all, Mr. Wright.

MR. CHAIRMAN: Any other members? Mr. Younie.

MR. YOUNIE: Okay. Just one point. The court decision that we've had brought up came to the conclusion that the city's assessment during a number of years did not follow the letter of the PUB or LAB orders in some way, although your contention is that it followed the spirit of the initial order or the intent of it, that because of wording problems or whatever, the letter of law was seen by the judge at least to have not been followed.

MR. FACEY: I think our practices have followed an earlier court decision and legal advice as to how the orders should be interpreted, and that was followed in good faith until the Chisan court decision, firstly. Secondly, the Cirrus court decision brought in other interpretations, and then these were applied from that time forward.

MR. G. ANDERSON: Yes, that is correct. The first case being the Odeon Theatres case, which was in Alberta court.

MR. YOUNIE: I just wanted to settle in my mind whether it was a case of the city wilfully trying to get more taxes by intentionally misinterpreting or just . . .

MR. FACEY: We would not do that.

MR. CHAIRMAN: So you say, Mr. Facey.

MR. CHISAN: Mr. Chairman, could I also respond to that question, please?

MR. CHAIRMAN: Briefly.

MR. CHISAN: You will note that the city says that the intent of the orders was to protect land of an urban nature or country residential? I've given you a copy of the Cirrus decision, and in my case it was the same thing. Both of these matters that went before the court involved exactly that kind of land: rural nature land with no improvements and no services. It did not refer whatsoever or did not include any similarity to lands of a shopping centre nature. Their earlier decision that the city refers to was very clear, and I'd just like to read that. The judge says that the preamble makes it clear that the release in respect of assessment and taxation is intended primarily for undeveloped land, not commercial ventures. So, I would say that's exactly the opposite. The previous decision is saying that commercial ventures do not come within the public utility order.

MR. CHAIRMAN: Mr. Chisan, we do have that material before us, and the committee will read it. But I think we now have to adjourn this matter and move on to the Alberta Wheat Pool Amendment Act.

I want to thank all members and participants for their patience in allowing us to deal with this matter.

Mr. Musgreave.

MR. MUSGREAVE: It might be a good idea if we had a 10-minute break, Mr. Chairman.

MR. CHAIRMAN: Well, maybe five minutes.

[The committee recessed from 10:10 to 10:17 a.m.]

MR. CHAIRMAN: Well, ladies and gentlemen, I'd now like to welcome the Alberta Wheat Pool, the proponents of Bill Pr. 6, a petition to amend the Alberta Wheat Pool Act. I think we have three intervenors, and just for the information of everybody involved, our procedure is to have the proponents of the Bill make their presentation. In that connection, the general practice is for the counsel for the petitioner to make an opening statement and introduce the people who will be giving evidence, and then I think at this time we'll have all of the witnesses sworn, including the intervenors, so that we may proceed without interruption once we get started. Then the petitioners will present their Bill. They will be open to questioning from intervenors if the intervenors have any questions. The intervenors will then have an opportunity of putting their point of view before the committee, and then the petitioners will have the opportunity of summing up, if they so desire. Then of course the matter is left with the committee for consideration. We like to receive copies of Hansard for this proceeding before we consider further what our recommendations will be.

So I'll call upon the counsel for . . . No, first of all, I'll call upon Mr. Clegg to give his report in reference to this Bill.

MR. M. CLEGG: Mr. Chairman, this is my report on Bill Pr. 6, the Alberta Wheat Pool Amendment Act, 1987, pursuant to Standing Order 99. The purpose of this Bill is to make provision for the purchase of reserves from farmers who are terminally ill. There's no model Bill on this subject, and it does not contain any provisions which I consider to be unusual.

[Messrs. Schmitt, Livingstone, Maadl, Volk, Graham, Broughton, Walker, and Arsene were sworn in]

MR. CHAIRMAN: Thank you. Mr. Mack, if you would like to open.

MR. MACK: Thank you very much, Mr. Chairman and members of the committee. At the outset we would like to thank you for the opportunity to appear this morning and address our petition. If I may, Mr. Chairman, I would like to introduce the representatives of Alberta Wheat Pool that are present here this morning. Sitting on my immediate right is Mr. Doug Livingstone. Mr. Livingstone is the president of Alberta Wheat Pool and has been a member of Alberta Wheat Pool's board of directors for period of four years. Prior to that Mr. Livingstone served as a delegate of Alberta Wheat Pool for a period of 11 years. Mr. Livingstone has been an Alberta Wheat Pool member for 27 years. Sitting to the right of Mr. Livingstone is Mr. Ray Schmitt. Mr. Schmitt is the first vice-president of Alberta Wheat Pool and has been a member of the Alberta Wheat Pool board for five years, previous to that a delegate of Alberta Wheat Pool for eight years and an Alberta Wheat Pool member for 12 years in total -- I'm sorry; 36 years. Wrong line, Ray. Also present is Mr. Alec Graham. Mr. Graham is sitting behind me. Mr. Graham is presently the second vice-president of Alberta Wheat Pool and has been a board member for five years, a delegate for eight years, and an Alberta Wheat Pool member for 12 years. I might add, Mr. Chairman, that Mr. Graham is as well the chairman of the audit and finance committee of the directors of Alberta Wheat Pool. These gentlemen, of course, all are members of the Alberta Wheat Pool board of directors.

On my left are the management representatives of Alberta Wheat Pool. On my immediate left is Mr. J. W. (Wally) Maadl. Mr Maadl has been the general manager and is presently the chief executive officer of Alberta Wheat Pool and has held those positions for 17 years. To the left of Mr. Maadl is Mr. Tim Volk, and Mr. Volk is the director of finance and subsidiaries of the Alberta Wheat Pool.

Mr. Chairman, I'll keep my remarks, I think, at the outset reasonably brief. I would like to review certain basic characteristics of the Alberta Wheat Pool for the benefit of the members who may not be familiar with the organization from past petitions. Then I will proceed to address the purposes of Bill Pr. 6.

Alberta Wheat Pool, Mr. Chairman . . .

MR. WRIGHT: Mr. Chairman, if that microphone were put before counsel, it might be of assistance.

MR. CHAIRMAN: It doesn't amplify, Mr. Wright; it's just for recording.

MR. MACK: Perhaps it would help if I stood, Mr. Chairman, I'm quite happy to do that. It might project better.

MR. CHAIRMAN: Whatever is most comfortable. I'm sorry, and I do apologize for the conditions we're in, but because of time constraints we've had to allow -- Public Accounts is entitled to the Chamber at this hour, and we wanted to deal with this Bill for your purposes, so I'm sorry that we're not in the ideal circumstances.

MR. MACK: Not at all, Mr. Chairman. The last time I was here I stood and I was asked to sit, so I wasn't too sure what to do. So I guess I can proceed with some confidence. Now, is that better? [interjections] Good, that's great.

As I mentioned, Alberta Wheat Pool was originally incorporated in 1923 and presently has 60,000 members, of whom approximately 40,000 are active patrons of Alberta Wheat Pool's goods and services. Alberta Wheat Pool, I think, is well known to all of us who grew up on the prairies. I think most people are aware that Alberta Wheat Pool is commonly known as and is a co-operative. There are certain attributes of a co-operative association that I will touch upon briefly in a moment. The essential nature of Alberta Wheat Pool's business is to provide grain handling services and also other agricultural goods and services to members, essentially on a cost basis. The characteristics of Alberta Wheat Pool are designed to achieve that end ultimately and also to embody the traditional concepts of a co-operative association.

Mr. Chairman, I'll touch briefly upon certain basic aspects of a co-operative association as they are present in Alberta Wheat Pool. One traditional element of a co-operative association is the principle of one vote per member, regardless of investment level. Another principle is no proxy votes. In other words, voting must be done by the members themselves. A third principle of a co-operative is open membership. That is, there is a list of criteria which must be met for an individual to qualify as a member, and if the individual meets those qualifications, membership is open to that person. A fourth characteristic of a co-operative is the distribution of earned surplus in accordance with the level of patronage rather than level of investment. In other words, you receive a return from the co-operative based upon the level of business you do with your co-operative.

I would like to now, Mr. Chairman, touch briefly upon the membership representation structure within Alberta Wheat Pool. Being an organization as large as I've indicated, it has a structure that is somewhat unique among bodies corporate, although certainly not among co-operatives as such. Alberta Wheat Pool, through its bylaws and Act, divides the province of Alberta into nine districts, and that's done on a geographical basis. Each of the nine districts in turn has been subdivided into eight subdistricts. Members of the Alberta Wheat Pool are assigned to a subdistrict based upon geographical considerations. The members that are present within a subdistrict elect what is called a delegate. Nine times eight is 72, so there are 72 delegates throughout the province. The delegates within each district, and there are eight delegates within each of the nine districts, in turn elect a director to represent that district. The directors so elected then constitute the board of directors of Alberta Wheat Pool. Delegates are elected traditionally in August of the year and serve a three-year term under the present structure. Directors are elected at the annual meeting of the Alberta Wheat Pool, which generally happens after harvest, in late November or early December.

Having discussed just briefly, Mr. Chairman, the organizational structure of Alberta Wheat Pool, I would like to comment next upon Alberta Wheat Pool's use of surplus earnings, which is essentially what brings us before you this morning. At the outset I would like to observe that under the provisions of the Alberta Wheat Pool Act the retention of surplus earnings and the distribution of those earnings are matters which are within the control of the delegates, not the board of directors. As you will recall from my comments a moment ago, Mr. Chairman, the delegates of Alberta Wheat Pool represent the intermediary level of representation within the organization; in other words, it's the

level below the directors or above it, depending on how you look at it.

The surplus earnings of the Alberta Wheat Pool are permitted under the Act to be distributed by way of a patronage dividend. As I mentioned in my introductory comments, one of the aspects of a co-operative is that earnings are returned to members based upon level of patronage, and indeed that's how the patronage dividend is declared. When declared, the dividend is then disposed with in either one of two ways. On the one hand, part of it or all can be returned as cash patronage refunds; in other words, cash paid directly to the members. The other alternative provided for in the Act is the capitalization of earnings by the issuance to members of what are called reserves on a fully paid basis. In other words, based upon my level of patronage with the co-operative throughout the year, a certain amount of money will be payable back to me through the patronage refund.

Depending on the decision of the delegates, I will get a part of that through a cash payment and possibly a part of it through the credit of fully paid reserves, which in effect amounts to capitalization of those earnings. Earnings are capitalized for that reason: to provide Alberta Wheat Pool with a source of working capital. As with any commercial enterprise, Mr. Chairman, working capital is an essential element, and Alberta Wheat Pool in that respect is no different.

Reserves having been capitalized in that fashion, the Act then goes on in section 26 and provides for a mechanism for those reserves to be returned to the members. There is a very carefully thought out and structured system for those reserves to be returned, based upon a variety of criteria. However, recognizing the essential nature of capital to any commercial enterprise and those that deal with it, the Act is very limited and circumspect in terms of the categories that are available to permit the return of the reserves.

In the past, Mr. Chairman, Alberta Wheat Pool has been confronted with, unfortunately, terminally ill members who have come to the board of directors of the Alberta Wheat Pool and asked if some allowance couldn't be made for their reserves to be returned to them on a compassionate basis. There are situations in which those members qualify for the return of reserves otherwise than by reason of their terminal illness. However, there have as well been cases where the members have been terminally ill but for one technical reason or another are not qualified under one of the subsections of section 26. Alberta Wheat Pool has then been faced with the very unpleasant task of having to tell these people on their deathbed that they have no legal capacity to return their money to them, and as difficult as it has found that to say, it has been obliged to do so in fact by the wording of the Act. This matter was brought up at the annual meeting that the delegates held in early December of this year, and after a considered debate and consideration of the issues involved, the delegates instructed the directors of Alberta Wheat Pool to make application to this committee to obtain the legal capacity to return reserves to members who are terminally ill.

That, in a nutshell, Mr. Chairman, is the reason for our attendance before you this morning. In addition, that concludes my remarks. At the appropriate time, the members of Alberta Wheat Pool present this morning would be happy to entertain questions from members of the committee.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Mack.

MR. WRIGHT: The more usual sort of description for this trigger, to use a word carried over from the last case, by analogy to insurance policies, would be if the member is totally disabled from the business of farming. I take it you did consider that wider area and rejected it. Is that right?

MR. MACK: Mr. Chairman, I'd like to defer that to one of the representatives of Alberta Wheat Pool inasmuch as I think it depends upon the debate that happened at the time the resolution was passed. Perhaps the president would be in a position to comment.

MR. LIVINGSTONE: Mr. Chairman, in response to the question, those kinds of considerations sometimes are not even thought about in the minds of the terminally ill patient, because family members may wish to continue farming. In essence, under the rules that we can distribute the reserve structure held by that member at that time, it would not be available to him if he retains ownership of the land, as an example. Therefore, we could not pay it out under some of the other categories. If he decided, though, to cease farming and sell the holdings and properties that he has, we could pay him out under other categories that we now have available to us.

MR. CHAIRMAN: First of all, I'll give an opportunity to the members to ask questions, but then I'm going to allow the intervenors to ask questions on this point. Mr. Walker, Mr. Broughton, or Mr. Arsene, do you have any questions with regard to what has been said so far?

And no members have any further questions? Everybody understands?

Now, I have received a communication from Mr. Mack concerning the points of view of Mr. Broughton at least. I would like to suggest -- of course, I'm in the hands of the committee. The Alberta Wheat Pool Act doesn't come up that often; I guess maybe every other year. It doesn't come up annually, and it may be felt -- I know Mr. Mack feels that Mr. Broughton's intervention might not be totally relevant to what is being proposed in the Bill.

Mr. Mack, we've just been through a long hearing, many meetings with the city of Calgary, and we've tried to give an opportunity to those people who took the trouble to come to state briefly what their concerns were. I think I'm going to be fairly lax on the rules of relevancy, but I'll probably be fairly strict on time.

I guess I'll just point out, too, that the Alberta Wheat Pool here is the benefit of a private Bill of this Legislature, and when it comes forward, I guess we feel we should let people express an opinion. If it's not relevant, it's probably not going to bear on our considerations of what you're asking for, but at least it's somewhat of a safety valve or whatever for elected representatives to hear what people think about what's before it. I hope we can proceed on that basis.

MR. MACK: I think it's fair to say, Mr. Chairman, that we have confidence in your discretion.

MR. CHAIRMAN: Thank you.

If there are no further questions on the presentation of the Bill, then I guess we'll go in the order of swearing in. I'll ask Mr. Walker to come to the table if space can be made for him.

MR. WALKER: Thank you, Mr. Chairman. I feel rather at

home here today. The background noise kind of reminds me of the last few days I've spent in my tractor cab. But we'll bear with it.

My name is Bruce Walker. I'm a farmer in the Gleichen district, a member of the Alberta Wheat Pool, as most farmers are. My membership number is 137887. From 1982 to 1986, with a brief period of a few months' lapse, I served as a delegate to the Alberta Wheat Pool.

In addressing my comments to the proposed amendment, Mr. Chairman, I guess simply put, it looks like a rather innocent and perhaps necessary step, but in my opinion it suggests perhaps a basic flaw in the reserve structure as it applies to owner equity in the Alberta Wheat Pool. Mr. Mack has fairly well elaborated on the procedure whereby the members are represented by the delegates and such. My opinion would be that the individual member should have a more active role in determining his fate with regard to his equity investment in this company. I guess that would require that the committee consider other areas beyond the narrow scope of the proposed amendment, but in my opinion I think that is necessary.

As a delegate to the Alberta Wheat Pool I represented approximately 800 farmers who had about a million dollars invested in the company, and as a rather small farmer, that did weigh on me. I accepted that as a serious responsibility. I could elaborate, Mr. Chairman, on a particular circumstance that occurred while I was a delegate, and perhaps enlighten you as to the implications on the delegate of representing a member and his equity in the company. During my term as a delegate we had some problems with our fertilizer company. It was short of money; it needed a quick fix. I guess the directors in their wisdom decided to roll over some land, and the implication of that had a direct bearing on the profits of the company in that we ended up with a $2 million-plus annual interest payment; that's what it amounted to. It was disguised -- perhaps that's a loaded word. It was explained as a lease payment to the financial institution that underwrote this land transaction. It had an impact on the bottom line on the annual statement. That impacts on the profits that were available for distribution, the expedience or regularity with which members would then have their reserves purchased, in fact roll over their equity in the company and update it. That was a concern.

It's also a concern of a contingent liability against Alberta Wheat Pool, and I think it's that aspect that is of more concern to me. At the time that I was finishing my term as a delegate, I heard a talk show by an accountant on the radio talking about equity write-downs and tax write-offs. To that end, when I was filling out my T1 general tax return, line 217, entitled allowable business losses, seemed relevant. What I in fact did was to write off a substantial portion of my reserves, my equity in the Alberta Wheat Pool, as a business loss and did that for two consecutive years. Whether it was known or not by Revenue Canada, they accepted it without question both times. A full explanation of the situation was given, the reason being the contingent liabilities against the assets of the Alberta Wheat Pool that had been taken on with dealings other than actual grain company.

Alberta pool to me was awful solid. You've got the members' reserves that are used to build up the elevator company, and it looks real solid, financially really well fixed. Some of these other things were a problem. I think it perhaps raises the issue with concern to another area of the Act, and there's a lot of legal stuff here that's totally beyond me. The Act charges the directors with the responsibility of holding reserves in trust. Now, I'm not enough of an auditor or an accountant to fully be able to determine this, but to me we're getting into a dangerous area, a gray area here, where in my opinion the net equity of the Alberta Wheat Pool is close to being less than the amount of the outstanding reserves. If there was a day of reckoning today, I suspect there wouldn't be assets in Alberta Wheat Pool to cover the $110 million or greater in outstanding reserves owed to the members. I'm not sure if this is a breach of trust or not.

Mr. Chairman, I think as far as my comments I really don't need to go much further than that, but I hope I've been able to suggest to the committee that the reserve structure is rather unwieldy, that some alternate structure which has been talked about in the pool -- I know I had long discussions with the public relations representative in my area when I was a delegate. But there are other alternatives that could be more workable, that would allow an individual in the circumstances addressed by this amendment to carry out on his own initiative the very thing that we're talking about, delegates' resolutions at annual meetings and amendments before the Legislature.

I would hope, Mr. Chairman, that the committee might give some interest to this broader issue; namely, the reserve structure of the Alberta Wheat Pool. Is it relevant to the agricultural community today?

Thank you very much for the opportunity, Mr. Chairman. I appreciate the time.

MR. CHAIRMAN: Thank you, Mr. Walker. Mrs. Koper, did you have a question?

MRS. KOPER: Of Mr. Walker, yes. Basically, your presentation came across to me as not having any particular objection to what was trying to be done but a concern with the larger question of how the reserves are handled. Perhaps you're suggesting we should postpone any judgment on this until the directors address the larger question in your mind.

MR. WALKER: I suppose, Mr. Chairman, on compassionate grounds the narrow issue under consideration is a concern. I would hope that some of my remarks on the broader issue would include the particular item that the committee is considering here; namely, an individual, in the case of terminal illness, not being able to actively and freely liquidate his interest in the company.

Am I suggesting that you totally delay this initiative until the larger one is handled? As I understand it, the Wheat Pool Act can be amended only by the Alberta Wheat Pool. When it's open for amendment, that's the only time that Members of the Legislative Assembly can consider specific or general conditions. If that is the case, I suggest now is the time to direct concern to this larger issue as well.

MR. CHAIRMAN: I'll just ask Mr. Clegg to comment on that.

MR. M. CLEGG: Mr. Chairman, I'd just like to make the point that petitions which would amend the Alberta Wheat Pool Act have always traditionally been received from the Alberta Wheat Pool. That is the normal course of events. However, it does not mean that nobody else can amend that Act. Naturally, of course, the Legislature, on its own initiative or on the initiative of any member of the government under a government Bill, can amend the Act. Secondly, any interested party -- and that would include any member of the Wheat Pool -- can, either by himself or with other members, bring in a petition for an amendment to

the Act. So members of the Wheat Pool, if they individually or collectively feel that there should be changes, are not barred by procedural considerations from petitioning this Legislature through this committee for amendments.

MR. CHAIRMAN: Dr. West and Mr. Wright.

DR. WEST: Mr. Walker, just a point to clarify. You said that you had thought -- or is this a misinterpretation of mine in communication? -- that a resolution could do the same thing, that there are other avenues within the organization besides this that could address . . .

MR. WALKER: Mr. Chairman, not to my knowledge. I think it requires an amendment to the Act.

MR. WRIGHT: A question to our counsel, Mr. Chairman. We are -- or perhaps I should ask it directly. Are we free to amend the Act off our own bat outside the ambit of any petition?

MR. M. CLEGG: Mr. Chairman, the Act is a private Act. The normal procedure for dealing with a private Act is to amend it by private Bill, which would come on a petition. However, there is no doubt that a public Act may amend a private Act. A public Act can be initiated by a private member through a private member's Bill or by a government Bill.

MR. CHAIRMAN: But, Mr. Clegg, I think Mr. Wright's question is: once somebody has petitioned for an amendment, can we widen that amendment of our own volition by recommending to the Legislature that it be widened?

MR. M. CLEGG: Mr. Chairman, in that regard, we are limited by our own procedures, which provide that an amendment to a Bill may not go beyond its initial scope. Any amendment which was brought in to this Bill would have to be within the present scope of the Bill, partly because the amendment with a wider scope wouldn't have received the first reading which is required, and also the advertising which has been carried out by the Wheat Pool would be invalidated by the broader scope of the amendment.

MR. WRIGHT: So any ideas that we had would have to be clearly subordinate and within the scope of what was already on the table.

MR. M. CLEGG: That's correct, Mr. Chairman.

MR. CHAIRMAN: Mr. Mack, is there any question you'd like to ask of Mr. Walker?

MR. MACK: I have a couple of points I'd like to make in response, Mr. Chairman.

MR. CHAIRMAN: Okay. I'm sorry, I'll have to deal with the members first. I didn't see Mrs. Hewes.

MRS. HEWES: Thank you, Mr. Chairman. I'd just like to ask Mr. Walker -- I take it that you were a delegate at the point at which this amendment was discussed by the membership. No? Then can you tell me: at any point when you were a delegate, were amendments introduced and discussed by the membership of the nature that you've been describing to us on the wider issue?

MR. WALKER: No.

MRS. HEWES: No. There have been no initiatives by members to put that kind of amendment to the membership.

MR. WALKER: Not to my knowledge, no. There were some informal discussions with a few delegates in the particular district where I was with regard to perhaps setting this up on a share-capital basis rather than more along the lines of a co-operative. This was strictly informal and was not a resolution considered by the delegates.

MRS. HEWES: Thank you, Mr. Walker.

MR. CHAIRMAN: Mr. Mack, if it can be dealt with by way of rebuttal statement or argument, I'll perhaps leave that to you. But if it's a matter of fact or questioning, you're quite free to cross-examine. Otherwise, I'd like you to reserve your comments until you're winding up.

MR. MACK: If you could indulge me for a moment, please, Mr. Chairman.

MR. CHAIRMAN: Certainly. Mr. Broughton.

MR. BROUGHTON: Mr. Chairman, members of this committee, may I remain seated?

MR. CHAIRMAN: Yes, you may. We recognize that you're under something of an incapacity. We're sorry that you're in that condition, but you're certainly permitted to remain seated.

MR. BROUGHTON: Thank you. I did submit in writing a submission here last month, which I believe has been circulated. Did you want me to read it or will you accept it as presented?

MR. CHAIRMAN: I think everybody has received it, but you're free to summarize it if you wish or to make reference to it.

MR. BROUGHTON: Thank you. My submission is to suggest that your committee consider recommending to the Legislature the repeal of the Alberta Wheat Pool Act rather than an amendment to it at this time, after providing a year for incorporation. I've given some reasons for that opinion, which I could elaborate on if there are any questions, but the suggestion for reincorporation is to ensure some ownership control. By that I mean direct control, possibly through a financial structure where the member has a direct vote in the affairs rather than a secondhand vote through this delegate body, which I hope my submission has indicated is not working satisfactorily in the interests of the members. I further submitted some appendices to back up that opinion, which I submitted this morning and which have been distributed. So all my arguments in favour of this suggestion of reincorporation are included here.

Thank you.

MR. DOWNEY: Mr. Broughton, you appear to have a pretty good background knowledge of the pool, and I wonder whether in your studies you looked at the way reserves are handled by the Manitoba pools and whether that would be an alternative for

the Alberta Wheat Pool?

MR. BROUGHTON: Mr. Chairman, I looked at it years back, but it's a few years since I've looked at it, and I'm not confident to suggest whether or not it's the exact one that we'd like to follow.

MR. DOWNEY: Specifically, what I understand to be the case is that the Manitoba pool allots its reserves on the basis of the member's share of those reserves rather than on patronage, and that in effect would tend to, I suppose, show a return to capital and perhaps make the organization more responsive to its major owners; in other words, the people with the largest portions of reserves in there.

MR. BROUGHTON: Well, my impression would be entirely supportive of that concept. Hopefully the vote would be relative to the patronage. In fact, I think it would have to one way or another to be effective. Certainly that concept, I think, would be very desirable as a change here.

MR. CHAIRMAN: Thank you, Mr. Broughton. I guess maybe before I go to Mr. Arsene, I'd like to ask: is there much of a difference in the way the Alberta Wheat Pool handles its reserves from that pursued by the Saskatchewan pool or Manitoba pool?

MR. VOLK: I don't believe so, Mr. Chairman. Basically, they are the same in principle in terms of the way they are financially handled. The voting structure is not identical, but I believe it is similar in the case of all three pools.

MR. WRIGHT: Mr. Broughton, is there widespread dissatisfaction with the setup within the pool?

MR. BROUGHTON: Well, I feel there is. I might say that I was the corporate secretary of the association for some years, and I continually get requests from members for information, much of it relative to current things, which I don't pretend to be knowledgeable about in detail, but some on the structure and the background. I haven't kept a tally of those, but they're actually increasing. Those inquiries are in the dozens and sometimes the hundreds every year.

MR. WRIGHT: Well, Mr. Broughton, if there is widespread discontent, then why don't the members instruct their delegates or become delegates themselves or pass resolutions at the locals, or whatever you call the grass-roots units, to do something about it?

MR. BROUGHTON: Well, my understanding is that in many cases on a local basis they have instructed their delegate. Then he gets into a group of 70 -- I believe it's 82 or so now -- and he can put those forward with very little effect, but he's fulfilled his obligation in the first place. My reading would be that that's about the pattern that follows, and really nothing gets done and probably wouldn't unless there was a major concern on the part of over half of the delegates.

MR. WRIGHT: But is there any difference between this and any other similar problem in any organization; i.e., it's often the case that a few people identify the weak points, and then they undertake a campaign amongst the membership to get it changed. It's really the same sort of thing, isn't it?

MR. BROUGHTON: Well, it's quite similar, but this is a very unwieldy organization in that unlike the members sitting here, our delegates don't have to get elected; our directors don't have to get elected by the people they represent. We have a secondhand representation in there which is very, very unwieldy compared to, say, a constituency association.

MR. WRIGHT: The delegates are elected, are they not?

MR. BROUGHTON: Yes, they are.

MR. WRIGHT: All right. I'm just worried about the concept of us charging off on our own without some representation from the Wheat Pool itself.

MR. BROUGHTON: One of my purposes in making this representation is that your committee had agreed to hear a request for a change, so the opportunity is here. I don't like giving secondhand information to anybody. Many of these people that have come, I didn't feel at liberty to give them information, much less an opinion, because what could they do with it? But having come here and made my statement, such as it is, if those same members are dissatisfied and see something like this in writing, they'll have a little better basis on which to pursue any ideas they might have.

MR. CHAIRMAN: Thank you. If there are no further questions of Mr. Broughton, then I'll ask Mr. Arsene.

MR. ARSENE: Do you mind if I sit down?

MR. CHAIRMAN: Not at all, Mr. Arsene.

MR. ARSENE: Thank you.

MR. CHAIRMAN: Your voice sounds very strong.

MR. ARSENE: I'm one of those farmers hollering at those cows, you know.

My name is William Arsene, and I'm on the Lethbridge Northern, just out of the city of Lethbridge about six miles. My wife and I have farmed together since 1941, so that's why I'm sitting down. I'm getting to be an old man. My wife's number is 130199 and mine is 129741. My submission to you is that I suggest to your committee that they consider recommending that Legislature repeal the AWP Act. This Act has been in force since 1930. My father was a pool member in 1927. The [inaudible] pool mess was what changed our farming for all our family. It was really bad management, which is bad management today.

AWP is the only pool of three prairie provinces that farmers supposedly have full control. That's not true. I mean, the Alberta government, which they should. They were first the body to market grain, not fertilizer and machines and elevators and everything else. They were there to market grain. This is what the Act was really written on, and that's why I'm asking to change this Act to a corporation. Now, a corporation would be the same. If you have $1,000, you'd have 1,000 shares or 500 shares or how you structure it. I think that the members should have the vote, not that the officers do what they want, and as they come along, we'll find more about this.

Now I am a member. I'm not an active member because I don't like the way they deal. I got a grade higher when I went to another elevator. Well, if I haul 50,000 bushels of wheat and I get another 6 or 7 or 13 cents a bushel, that's where I'm going to go. It will pay for my trucking and maybe buy my wife a new dress. But I've never gotten one of these because I've discriminated against them. I talked to the PR man in Lethbridge; I wanted to get one. I had to get it out of the library here. Now, my wife is supposed to get it, and I'm supposed to get one, but they don't send it. You know, I'm a discriminated member. But they got my $5.

MR. DOWNEY: Just for clarification, is that the annual report?

MR. ARSENE: Yes.

MR. DOWNEY: Thank you.

MR. ARSENE: They have $104 million in reserve. When I wrote my submission, I said it was from $60 million to $100 million. Now, don't you think it would be awfully good to give $100 million back to these farmers? They could really use it. Now, if this is a co-operative, and some of those farmers are going to lose their land, it might help. But they're so damn greedy; they just look after themselves and just forget about the farmer. Now, the interest even on $100 million -- I'm sure I could get $10 million, and that's about all the profits they make. That's really bad management. Something has to be done.

Now, there's another thing. If all the reserves are paid out, and say there was $100 million or $200 million left over, who's going to get it? Is it going to be the directors or the staff in the office that's left? Say that we're all members here, and all the reserves are paid out. Who owns the pool with $200 million or $300 million? Let's get that straightened out now. My dad was a pool member. Where's his profits? He'll never get them, unless he gets them in heaven, and I'm sure the pool doesn't want to do that.

They're in the oil business. Why in the hell are they in the oil business? Why should they be in the business when a lot of farmers have reserves? But their officers decide to invest. Inflation has eaten up all value of reserves. At one time you could buy a $10,000 or $5,000 tractor; today the same machine is $100,000. If you have $5,000 in reserves, you've got nothing today. You know, it buys a sandwich in a hotel and a few other things; that's about all we have left over. The turnover of reserves should be every three or four years, completely.

Now overages, over legal limits. This is at the terminals, the 1 percent gross. I figure they're making from $12 million to $15 million. We'd like to see the overages for the last 10 or 15 years. This is over legal limits; this is over the 1 percent that they are actually allowed. Where are they? Let's see them. Let's see them in there. They're not there. I'm sure it's around $15 million to $16 million, as I figure it out. I would like to see these for the last 10 or 15 years, and if the Pool can't give them to me, I'd like to ask the province to send it to me, because you're the people who are supposed to be looking after this.

In the grade promotion, blending one and two canola, farmers take a loss of $60 to $90. If they blended two and put enough into one, which they have and they are doing, they make $60. Why aren't they giving it to that actual farmer? The farmer takes the loss, the one individual. Ninety dollars is a lot of damn money for one tonne. Why can't they come by and say, "Look, we've done this; we'll give you $30 or $40 of it, whatever it may be"? The problem of farmers is the auditor. Where are some of the answers?

Canbra had $30 million in the bank. Canbra is a crushing plant in the city of Lethbridge under a corporation with shareholders. They could not buy another business unless they went to the shareholders and the shareholders said they could buy so many shares, say 52 percent. The officers can do what they want. Why can the Wheat Pool take shareholders' reserves and build elevators in Egypt and the fertilizer and all down the line? They have no right to do that. In 1930 maybe they did amend it, but I think we're interested in the marketing.

If they're in the fertilizer plants, two or three years ago they made $2 million or $3 million, which is an absolute lie. Mr. Simplot is a lot bigger than the Alberta Wheat Pool, and he said he'd eat the whole plant if they made 5 cents. Well, he's out in Manitoba, and he's in Idaho and in Montana. I talked to him last Friday. He says they never made 5 cents, if the books were put on the table. He says, "Let them look at them," and he'll prove to them that they're not. But they give them to us people that way.

Prince Rupert: all the pools wanted it knocked down. I think it cost around $4 million. Real good storage at the west coast. We get 62 cents a bushel more for every bushel of wheat that goes to the west coast than the east. What the hell is the matter with knocking that down? Why send our grain east when we lose 62 cents? Western Canada could get almost three-quarters of billion dollars if we shipped everything west. Three-quarters of a billion dollars is a lot of money for western Canada -- less than 200,000 farmers, if you can figure that out.

Now, why is the AWP dealing in futures markets with APL? They never did believe them. They always believed they could handle it, but that's how we lost out in 1929. If they would have had a futures market, maybe it wouldn't have gone down to hell. The future is an insurance; I guess you understand that.

I used to sell wheat every morning to a firm, 4,000 bushels a day, and every morning he bought futures, so this is where I get that. The Alberta Feed Grain Users Association costs the Alberta government $47 million a year. Where is this? All this is the reason. Who will lobby in Quebec against the farmers in the west and against the province of Alberta? What has Quebec got to do with the grain in western Canada? Not a damn thing, but they've got 17 members and they spend good money to lobby. Is this really and truly a farm organization? They're working for themselves -- just themselves, personally. APL plan to do 70 percent of the grain business. This is probably of 32,000 members. Now, we have actually 46,000 permit holders in the province of Alberta. They claim to do 40 percent. Well, I think, Mr. Radke, this government can prove -- and there's less than 20,000 active members that we've got at one time. Now, they're trying to say 40,000 active members. But if they do, which they're not, if they handle 70 percent -- I think in the [inaudible] saying 61 percent. So I just say it's 32,000 members, but 20 percent of the 32,000 do 80 to 90 percent of the business, which is probably 6,000 to 7,000 farmers. That's the way I've got that figured out.

XCAN is the trading arm of the three prairie pools, and the reason there have been members convicted of fraud -- how much did they defraud and who paid for it? I'd like to know those answers. I'd like to get them from the province, because you can't get them from them. I think the province has an obligation to give them to me.

The big problem at the terminal elevators -- now, I went there -- the grade promotions and overages. Now, this is over

the legal limit. To get $9 million or $12 million a year is a lot of money. AWP is not hedging their grain. Is XCAN doing it? It is a protection. Is XCAN hedging our grain? It could be serious; it could be another 1929, where the government would have to come in and pay for it. Why did AWP reject variable rates on CN when you could get a dollar and a half a tonne more? Why are you able to buy fertilizer in Great Falls made at a plant in Medicine Hat cheaper than you can buy it at the plant? Is this working for the farmer? They borrowed money on land in Calgary, and in the *Calgary Herald* about two years ago an article stated that that the land could be radioactive. This could be a very costly job for the farmers of AWP some day. It could be $100 million. It could be $200 million too.

MR. CHAIRMAN: Mr. Arsene, I regret to interrupt, but we are trying to . . .

MR. ARSENE: Well, I've got about another three minutes. Let me finish it.

MR. CHAIRMAN: Very good.

MR. ARSENE: In all the years the Alberta Wheat Pool was in the fertilizer business, I don't think they made a nickel. I'm sure they must be in debt something terrible. I would like to see the bottom line. I'd like to see the books, with an auditor -- my own -- or I'd like the government to give it to us. I think if the pools that have bought the fertilizer -- they could have bought that at a few cents over and above the actual cost. We'd probably have half a billion dollars in the bank now, instead of fooling around as they did. We had the actual story in 1963, when Mr. Baker took over the fertilizer plant. Mr. Baker had to resign on account of the fertilizer plant. I'd like the Alberta government to look at that. Why? I don't want to bring it up here. I haven't got the time, as you just heard him say. They're in the machine business; they're in the grain drying business. Their main job is marketing grain. Is this Bill only for marketing grain? They can go and buy any company in the world.

And another thing: they were selling grain in the Fraser Valley. Just listen to this: AWP was supposedly short 40,000 tonnes -- that's Canadian Wheat Board grain -- in 1986. They were getting the storage on it, and here they haven't got it in the elevator -- they sold it. How do you do that?

MR. CHAIRMAN: Well, I guess that was going to be a matter for the Canadian Wheat Board and the pool.

MR. ARSENE: I think the Alberta government too.

MR. CHAIRMAN: Well, if the Canadian Wheat Board was paying the storage, I think they're primarily concerned, Mr. Arsene.

MR. ARSENE: Alberta Feed Grain Users Association: you know that; the $47 million. I think the province has a real obligation here. We should have the Crow rate paid to the farmers. This is the $47 million that our province is paying.

MR. CHAIRMAN: Mr. Arsene, I regret to interrupt again, but we are now getting some repetition in your presentation . . .

MR. ARSENE: Yes, I know.

MR. CHAIRMAN: . . . and I will not allow you to repeat. If you're going to repeat, you must stop, because we don't have time for repetition.

MR. ARSENE: All right. Alberta Food Products, Fort Saskatchewan, sold to Canada Packers for $6 million with a tax credit of $20 million. Did they get the $20 million credit? In other words, they got the thing for nothing. That's real management, as I call it. Why are AWP doing producer cars when at one time they didn't, saying "Well, we can do it cheaper for the farmers." Why are they given producer cars now? Not to the betterment of the farmers? I'm sure there must be reserves, but I think if we were to read the bottom line, they might be short $110 million or $200 million at times.

Thank you.

MR. CHAIRMAN: Thank you, Mr. Arsene. Mr. Wright.

MR. WRIGHT: What is the extent of your reserves in the Alberta Wheat Pool?

MR. ARSENE: Mine? Nothing.

MR. WRIGHT: But you are a member.

MR. ARSENE: Yes.

MR. WRIGHT: When did you last attend a meeting of your local?

MR. ARSENE: I never have.

MR. WRIGHT: What steps have you taken within the organization to make your complaints known to them and get action thereon?

MR. ARSENE: Well, I tried to deal with some of the elevators, and I could always get a better grade elsewhere.

MR. CHAIRMAN: Does that conclude your questions, Mr. Wright?

MR. WRIGHT: Yes.

MR. CHAIRMAN: Mr. Zarusky.

MR. ZARUSKY: Thank you, Mr. Chairman. Mr. Arsene, I gather when you first started your presentation, you said that you and your wife were a farm unit, farm together now. Why do you have two separate, individual memberships in the Wheat Pool?

MR. ARSENE: We have two permits, two Wheat Board permits.

MR. ZARUSKY: Why do you have two Wheat Board permits?

MR. ARSENE: Well, I own quite a bit of land, and my wife does too.

MR. MUSGREAVE: Does your wife attend the Wheat Board meetings?

MR. ARSENE: No.

MR. DOWNEY: If I could just make a comment, sort of in response to Mr. Wright's query about why Mr. Arsene perhaps hasn't attended any meetings and yet he is a member. The fact is that once you're a pool member, you stay a pool member, whether you choose to participate or not.

MR. ARSENE: That's right.

MR. CHAIRMAN: Then, Mr. Mack, I think we'll now reach the stage where you may rebut and sum up.

MR. MACK: Thank you, Mr. Chairman. There's been a good deal of ground covered in the intervenors' submissions, and I certainly don't propose to respond TO all of it or even most of it. However, there are some points I would like to make. Mr. Walker . . .

MR. CHAIRMAN: I think you can appreciate that we're concerned at your responding to the points that are relevant to the Bill. I think you can take it as a given that the committee really is not requiring you to respond to everything that was raised, particularly those areas that were not relevant to the Bill.

MR. MACK: Quite, Mr. Chairman. I gathered -- if I understood the sense of some of the questions from the members of the committee correctly, there were a few matters which relate to the operation of the Act that they seemed somewhat puzzled by. My comments will be restricted to the clarification of those, Mr. Chairman.

There was some discussion and comment about the level of representation in the Alberta Wheat Pool and the manner used to provide for member representation. Perhaps it's stating the obvious: in an ideal world it would be great if everybody could exercise their vote on every particular issue that affects them, like people voting on capital punishment and seat belt legislation. As desirable as that is, it's not possible in the real world, nor is it possible with the Alberta Wheat Pool. Alberta Wheat Pool has adopted a method that seems to serve the best interest of the greatest number of people that has worked quite well for some 60 years. Again, I guess I can see that as an ideal, Mr. Chairman, but I don't see it as attainable in the real world.

Mr. Walker mentioned section 27 of the Act talking about reserves being held in trust. He is right; that expression is used in there. Section 27 amounts to a corporate repurchase of reserves, and it effectively amounts to having the members owning the reserves that are bought back so that the reserves are still owned in the members' hands. That's the net effect of that section; it does nothing more than that.

I should mention as well, Mr. Chairman, as some of the members of the committee will be aware, that in 1977 there was a committee struck to review the Alberta Wheat Pool Act, and it consisted of representatives both of government and of the Alberta Wheat Pool. Mr. Broughton was invited to make a submission to that committee and in fact did so, and he made an extensive submission. Mr. Broughton's comments were considered; a number of them have been repeated today. The committee at that time felt that Alberta Wheat Pool was quite properly under a private Act. The committee pointed out that people such as Mr. Broughton and Mr. ArSene would not have the opportunity they've had today if indeed we were under the Co-operative Associations Act. They've been given a public forum that they wouldn't have otherwise. The committee at that time felt there was nothing wrong with continuing the status of Alberta Wheat Pool under a private Act and concluded that the status quo was the best.

Some comment was made about the return of capital to members. As I pointed out in my initial comments and as was pointed out by a couple of the intervenors, the reserves are returned on a dollar per dollar basis of contribution. To that I would only add that there are some very well established principles of co-operatives. They've been established and recognized since the mid-19th century. A lot of these comments amount to: "I don't like co-operatives." Well, that is regrettable, but it is a co-operative and has been a co-operative and will be a co-operative. The people who don't want to do business through a co-operative should not become members, particularly when the ground rules are well known and understandable coming in. That amounts to a voluntary decision to join an organization and a later decision that I don't like the rules I accepted when I signed up. I guess I'll leave that comment at that.

However, as far as the return of equity is concerned, if I may, Mr. Chairman, this would be a very brief quote. I would like to mention a passage in a book called *Canadian Co-operative Law*. I'd be happy to leave this, or a copy of it, with the Clerk.

MR. WRIGHT: By?

MR. MACK: It's by Mr. W.B. Francis, and I'm quoting from page 5 of that:

> The best known of the early co-operatives was the Rochdale Equitable Pioneers Society which was founded on December 21st, 1844.

It then goes -- I'll skip a certain amount of the passage, Mr. Chairman, but it goes on to say:

> These principles have for the most part become recognized as fundamental and basic in co-operative ventures. These, which have undergone some modifications in practice, are as follows:
>
> > Patronage dividends. These are often appropriately referred to as savings returns. The net surplus is returned to the patrons as savings returns or dividends, in proportion to their patronage. This is intended to abolish what is commonly called profit by returning it to the persons who created it through their patronage. By this means the Rochdale Pioneers sought to organize business so that it was carried on under the control and for the benefit of those who patronized it. Perhaps the chief contribution of the Pioneers was the patronage dividend which has become identified with co-operatives wherever they operate.

In a nutshell, that's what a co-operative is all about. You use a facility that you have invested in, and your level of use indicates the return that you get back. So the net effect is that you are getting goods and obtaining services at cost.

I think the last comment I will make, Mr. Chairman, is that it is evident to me, certainly from Mr. Arsene's comments, that he is not happy with Alberta Wheat Pool. However regrettable that may be, no organization can be all things to all people. If he disagrees with the way in which Alberta Wheat Pool is run, my personal recommendation is that he become involved in its activities and stand for election, and then he can have a real, meaningful influence on the things he's complaining about.

I have nothing further to add, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Mack. Mr. Downey.

MR. DOWNEY: I wonder if you could maybe just elaborate a little on the portion you quoted from your book there. I have some problem with a distinction that is not made there between patronage dividends that are paid out and those that are retained as capital, and that passage does not seem to make that distinction.

MR. MACK: Mr. Chairman, there are parts of the book later that talk extensively about the method of financing a co-operative. I won't take the time right now to look one of those passages up, but the way in which Alberta Wheat Pool operates, and indeed the way in which most co-operatives operate, is that capital is obtained from the members in order to allow the enterprise to maintain itself and to continue to grow, as warranted by its business needs. It's a matter of obtaining a source of working capital. And again, it is something that is well understood and known when a member becomes, and it is a matter that is controlled not by the directors, as I pointed out in my initial comments, but by the delegates. Those are the people that decide how much of the earnings will be capitalized. They are given a report, they consider it, they make their decisions and ask their questions. It is a source of working capital and, in my experience, Mr. Chairman, is by no means unique to Alberta Wheat Pool -- quite the contrary.

MR. CHAIRMAN: Dr. West.

DR. WEST: In your patronage payouts, do you pay out the total profit of the year on a patronage basis and then retain it in the company, or do you set some aside as a reserve for the company for capital expansion?

MR. VOLK: In the last few years, Mr. Chairman, there has been a small amount set aside each year, a varying amount set aside each year, for retention in the company. But primarily, most of the earnings of Alberta Wheat Pool have over the years been distributed back to members in the form of patronage dividends, and the percentage has been as high as perhaps 97 percent.

MR. CHAIRMAN: Thank you, Mr. Volk. Any other questions from members?

MR. WRIGHT: One question. How are reserves valued?

MR. MACK: Mr. Chairman, reserves in effect amount to a capital contribution. It is returned on a dollar-for-dollar basis. So if a member -- through the method I've described earlier, the patronage refund -- leaves $1000 in reserves with Alberta Wheat Pool, he is credited in the Alberta Wheat Pool reserve category with that dollar number of reserves. And when the time comes for his capital, if you will, to be returned to him, he is returned those reserves on a dollar-for-dollar basis.

MR. WRIGHT: So there's no recognition for the use of the money in the meantime or devaluation by inflation?

MR. MACK: None whatsoever, Mr. Chairman. Again I might add, that may seem unusual in a normal commercial enterprise; that is quite typical in co-operatives.

MR. CHAIRMAN: Well, if there are no further questions, I want to thank everyone who participated in this morning's hearing. We have one more Bill to consider before we adjourn, and according to our normal practice we will be reviewing the record and considering the matter further as to our recommendation to the Assembly. Thank you very much.

[The committee recessed from 11:27 a.m. to 11:31 a.m.]

MR. CHAIRMAN: If the committee would come to order, please. I'd like to welcome Mr. Peter Knaak on behalf of Bill Pr. 20, the Institute of Canadian Indian Arts Act, and will commence by asking our Parliamentary Counsel to give us his report in reference to the Bill.

MR. M. CLEGG: Mr. Chairman, this is my report on Bill Pr. 20, Institute of Canadian Indian Arts Act.

The purpose of this Bill is to incorporate the institute and provide for its constitution. There's no model Bill on the subject, but it does follow Acts previously passed on similar subjects. Although section 6 of the Bill originally presented is unusual in that it gives degree-granting status and gives statute recognition of the granting of diplomas and certificates, which has not been done before, the petitioner's solicitor has discussed this with the department, and I have asked them to arrange for the department's views to be communicated to the committee.

Mr. Chairman, subsequent to writing this opinion, this report on the Bill, I have had discussions both with the petitioner's solicitor and the department, and we have produced an amendment which I believe and hope will be acceptable to all parties and which will solve those problems. And in connection with that issue, we've had a memorandum from the hon. Mr. Russell, Deputy Premier and Minister of Advanced Education in which he says as follows, with respect to degrees:

> By authorizing the College to award degrees,

which was contained in the first draft,

> section 6 of this Bill violates section 53 of the Universities Act which provides that only universities and accredited private colleges can grant degrees in programs other than divinity. Once this Bill is passed, however, and the College is incorporated, the Institute of Canadian Indian Arts can gain the authority to grant degrees by applying to the Private Colleges Accreditation Board.

Mr. Chairman, the amendment which I've discussed with the department and I've passed to Mr. Knaak this morning reflects this. It provides for the college to make proper application in the normal route to get accreditation for granting baccalaureate degrees. So I believe that when the amendment is considered by this committee, it will satisfy the point I raised in my report and the concern raised by the department.

MR. CHAIRMAN: Thank you, Mr. Clegg. Then I'll ask you to administer the oath to those persons who will be giving evidence, to be followed by Mr. Knaak's opening statement.

[Chief Omeasoo and Messrs. Cut Knife and Munroe were sworn in]

MR. CHAIRMAN: Thank you, Mr. Clegg. Mr. Knaak.

MR. KNAAK: Mr. Chairman, I want to thank you for the opportunity to be before the committee. All this brings back a bit

of nostalgia, coming back to these halls and seeing some friends.

The Act before you today, the Institute of Canadian Indian Arts Act, is an interesting initiative by the Samson Indian Band. If passed by the committee -- we're asking that it be passed -- it will be the first educational institute on the Indian reserve, and I think the initiative should be applauded.

I'd like to introduce the people with me. To my immediate right is Chief Jim Omeasoo, and just as a matter of interest, the Chief has won three elections in a row as Chief, and he just won one recently.

MR. CHAIRMAN: Congratulations. [applause]

MR. KNAAK: On my immediate left we have Patrick Cut Knife, who is the director the department of education in the Education Trust Fund. On his left, Leo Bruno. He's a councillor of the Samson Indian Band, recently winning an election as well, and a board member of the Education Trust Fund. To his left is Robert Swampy, who's a councillor of the Samson Indian Band and board member of the trust fund, and also winning a recent election. Lawrence Saddleback, deputy chairman of the Samson Education Trust Fund, and to my far right, Terry Munroe, who's the consultant and project co-ordinator for the Institute of Canadian Indian Arts. I am Peter Knaak, the lawyer to the Samson Indian Band on this matter.

Mr. Chairman, three people have a small presentation to make. This presentation before you is divided so it's more lengthy, and it'll give you some more information that you can take back with you and review. We don't intend to go through all this before you at this time, given the time constraints. The Chief wants to speak a bit about the general philosophy about education with the Samson Band, Patrick Cut Knife will give an overview of the institute and its purposes, and Terry Munroe will talk about the specifics of the institute and what it attempts to accomplish.

MR. CHAIRMAN: Sounds to be perfectly in order, Mr. Knaak.

MR. KNAAK: We have about half an hour -- a little less than half an hour?

MR. CHAIRMAN: Yes.

MR. KNAAK: Thank you.

MR. CHAIRMAN: Chief, if it's more comfortable for you to stand, that's fine. But if you're equally comfortable sitting, you're perfectly free to remain seated; however you feel most comfortable.

CHIEF OMEASOO: I guess in that case, I'll just sit back.

MR. WRIGHT: You may be better heard standing.

CHIEF OMEASOO: Thank you, Mr. Chairman. Ladies and gentlemen, it's a real privilege for me to be addressing such distinguished persons. It's the first time that I ever had the opportunity to be here in the provincial government building, and I appreciate that.

I'm not about to be taking credit for what our staff, mainly Patrick and his fellow workers, have tried to do. But at the same time, I have been on the council for a number of years, not only as the chief but as a council member. I had the opportunity of being on the education or school committee -- that's what we call it -- initially. That's going back two decades. That's the first time we tried to organize ourselves to try and improve education at our band level. I'm glad to say that the persons who continued on have achieved quite a few things educationwise.

Education is important, not only to our band members, not only to the native communities, but all over. And in certain areas, sometimes I feel a bit ashamed to say, some of our artists -- I'd say most of our artists -- from our home community learned how to develop their artistic talents in jail. I've stated that different times. Being on the school committee, we tried to find ways, talking with the departmental people, we could develop natural talents and abilities of our youngsters, for we know that they can't all learn their schooling in the academic field. We tried to get upgrading. This would be part of it, and I'm glad that it's getting to that stage where it's almost here. You all realize that the department of Indian affairs has programs in place, and we have a high dropout rate of Indian students.

I've also had the opportunity to attend a seminar in eastern Canada quite a number of years ago, where we talked about different things affecting their department and also treaty Indians across Canada. There I expressed my concerns on what I've just expressed, and to prevent a dropout rate I made some recommendations to the department whereby housing would be made available for upgrading of our native people, where the whole family could possibly be accommodated. Because I know, not from personal experience but actually seeing others, where they may come home one week in the first month of need, but they're able to get back to where they're taking their education and their learning. But the second time around, they may just forget about going back. That's the sad part of it. And in this case, if we get our own, where it would be in a local community -- and this won't be restricted to only our own community, our own band, but it would be made available as it progresses, as it grows, to all native communities -- I think it's something that our staff and our band can be well proud of. I hope we can make this, we can achieve this, and it is with your consent that we can attain that goal.

Thank you.

MR. CHAIRMAN: Thank you, Chief.

MR. KNAAK: Mr. Chairman, I will ask Mr. Cut Knife to make a few comments.

Before Mr. Cut Knife speaks, I would apologize. I forgot to introduce Linda Cut Knife, who is here observing.

MR. CHAIRMAN: Thank you very much, Mr. Knaak.

MR. CUT KNIFE: Thank you, Mr. Chairman and members of the Private Bills Committee.

Ladies and gentlemen, my name is Patrick Cut Knife, and I am the director for the Samson education department and trust fund. I am very honoured to be given this opportunity to make this formal presentation with respect to the concept of the Institute of Canadian Indian Arts. The concept of the Institute of Canadian Indian Arts is novel in the sense that it will be the first postsecondary institution of its kind to be located on an Indian reserve in Canada and that is controlled by the local people, which is in keeping with the idea of self-determination in the area of education. No one can deny the fact that there is a need

for this type of institution, because it has the potential of serving primarily as a vehicle for cultural expression as well as serving as a means of self-expression for the artist.

There is a need for this type of cultural and self-expression, since the "Indian stereotype" has always been a negative one. One way to correct a negative stereotype is to introduce a positive means of change. Indian people have always found a certain sense of pride in their artistic talents. Many of them are self-taught artists; for example, Allen Sapp, Alex Janvier, and Norval Morrisseau. The Institute of Canadian Indian Arts would be an ideal setting to pay talented individuals to develop themselves artistically in the areas of art, communication, drama, music, dance, the literary arts, and the various other programs which will be offered in the curriculum.

Although the institute is designed primarily for the benefit of the Indian people, it is not intended that these benefits should be restricted to just one particular cultural group. This institution can be used to promote cross-cultural communication, which will inevitably lead to cross-cultural understanding. It can help to clear up a lot of misconceptions about aboriginal people and their ways of life, their ways of thinking, and their ways of expressing their beliefs and value systems. In other words, artistic expression can be a medium of cultural exchange and cultural understanding, which is consistent with the concept of the Canadian mosaic. This is a very high ideal to strive for, but it is the dream of most Indian educators and probably the dream of most educators in general. Basic human understanding is, after all, the most important objective of any education system, and it is the most basic goal which the Samson Band hopes to achieve in this undertaking.

This underlying philosophy will be very strongly instilled in the students as an integral part of their overall training at the Institute of Canadian Indian Arts. The philosophy will challenge them to believe in a high ideal of human behaviour, and in this way it is hoped that their artistic talents will reflect this, in the sense that their work will be raised to an optimum level of performance.

We feel that the Indian people are ready to make some powerful statements about their history, their culture, their beliefs, and their value systems. We feel that they are ready to challenge the stereotypes created by the misunderstandings of past generations, and the most effective means of doing this is through the quality of their art. This is the reason why the Samson educational department and trust fund have been so interested in developing the concept of the Institute of Canadian Indian Arts.

They have a set of materials which has been provided for you. You will note some correspondence which our office has received from the Institute of American Indian Arts, which is located in Santa Fe, New Mexico. This institution is very interested in becoming a sister to the Institute of Canadian Indian Arts. You will also note some other correspondence in your materials which indicates a very high level of professional interest in the concept of a fine arts institution on the Samson Reserve, most notably the Alberta College of Art, the Banff School of Fine Arts, the Glenbow museum, and various groups and individuals in the field of fine arts and in the education field in general.

We feel that the curricula outlines which have been provided offer a comprehensive overview of the educational contents of our proposed fine arts program. We believe that our institution should be credible in the sense that it would follow a standard of accreditation which will conform to levels of competence which are presently recognized in the province. In other words, the academic component of the training program will not play a secondary or subsidiary role in the overall educational process. This is one step towards ensuring that the certificates awarded to our students who graduate from this institute will be recognized and their credibility respected.

In conclusion, Mr. Chairman, I would like to thank the Private Bills Committee for giving us the opportunity to make this presentation here today. There is much hope riding on this concept, and many people have invested their interest, time, and effort into this project. The next step is to make our dream of the Institute of Canadian Indian Arts a reality by this year. This is the first time that Indian people have taken such an initiative in the field of education, and we feel that we are ready to accept such a challenge.

The Samson Band chief and council and the education department believe that the institute will be a vehicle that can help the younger generation and generations to come to obtain a sense of identity and purpose which will be very beneficial to everybody. We therefore ask that the Private Bills Committee recommend the passage of this Bill.

MR. CHAIRMAN: Thank you, Mr. Cut Knife.

MR. KNAAK: Mr. Chairman, are we out at 12? Do we have to finish by 12, or is there some leeway?

MR. CHAIRMAN: Well, there is a little leeway, I'm sure. We've been going since 8:30, but I think there's a little leeway. We're not going to turn into pumpkins at the stroke of 12.

Mr. Younie, could we have the presentations?

MR. YOUNIE: Oh, there are more?

MR. CHAIRMAN: Yes, Mr. Munroe wants to.

MR. MUNROE: Thank you, Mr. Chairman and committee members. I would like to deal with some of the specific information with respect to the actual operations of the institute, and deal first with affiliation. The institute will establish an initial affiliation with the Alberta College of Art in Calgary. This will allow transferability of the Institute of Canadian Indian Arts to the College of Art, and will permit graduation with a diploma if a student transfers and successfully completes the program. In the future, it is hoped that the institute can establish, as well, direct affiliation with the university and provide programs that are transferable to university programs. It is recognized that the institute must move with caution, but it will move with consistency of purpose as well.

I'd like to direct your attention to tab C in the proposals we've provided: a letter from the Alberta College of Art from the vice-president and academic dean, Mr. Meads, and a commitment from the Alberta College of Art to enter into discussions for the transferability of the courses being offered in the first year of operations at the Canadian Institute of Indian Arts.

Workshops. A number of workshops will be conducted on an ongoing basis throughout the year and will include lectures and workshops with visiting artists and elders; workshops on the business and marketing of art, including general business principles; writing of resumés and information concerning grants available to artists; and visits to public and private galleries, museums, and lectures.

Admission requirements for the full-time program. A stu-

dent must be a high school graduate or have passed a high school equivalency test. Priority will be given to native students, and students who are over the age of 18 may make an application under the mature student category.

A proposed course outline for the full-time program beginning in September through December of 1987. The institute will offer the following courses: foundation drawing, foundation art fundamentals, and North American Indian art history. In January through April of 1988 the school will offer: foundation drawing, foundation art fundamentals, North American Indian art history, foundation painting, printmaking, and communications.

In the communications department, the Cree Tribal Studio. The Cree Tribal Studio was founded by the Samson Education Trust Fund committee in 1986. The Cree Tribal Studio will form the base of the communications component of the institute. The studio has been established to provide a vehicle whereby Indian people can participate in the electronic culture of today's society. Within the communications program, students will learn the basics of portable video production techniques, studio production techniques, editing, computer graphics, concept and script development, and script writing. We've provided a preliminary budget, and the first year's budget is set out on pages 48, 49, and 50 in the proposal.

The Institute of American Indian Arts in Santa Fe, New Mexico, was founded in 1962 by executive order under President John F. Kennedy and his then Secretary of the Interior. It was created to provide an environment which would nurture the development of young native American artists. Today, as a national fine arts junior college, the Institute of American Indian Arts offers education to all products in the field of native American art and culture.

In 1979 UNESCO cited the Institute of American Indian Arts as one of the seven leading institutions in cultural education in the world, the only United States program cited that year. Many of the institute's faculty enjoy celebrity status. And the Samson education committee has traveled to Santa Fe to visit the Institute of American Indian Arts on three different occasions. The committee has had the opportunity to discuss the establishment of the Institute of Canadian Indian Arts with the founders, faculty staff, and students of the American institute. The committee was encouraged to go forward with its goal to form a Canadian Indian arts school. The president of the Institute of American Indian Arts stated his school would be honoured to be considered as a sister institution with opportunities for exchange of faculty, students, and ideas. It is the view of the Samson Band that a great deal can be learned and accomplished by forming an informal association with the Institute of American Indian Arts as well as other fine arts schools in Canada.

MR. CHAIRMAN: Thank you, Mr. Munroe. Mr. Younie.

MR. YOUNIE: I'm sure my question was partly answered in my initial wisdom to listen to all of the presentations. There was mention of promoting cultural exchange and awareness, and Mr. Munroe in part answered that by indicating that admission would be open regardless of race, although preference logically would be given to natives; that registration would be open to others as well for that purpose. I'm wondering, as a long-range plan, what portion of the school's activities would be aimed towards creating that intercultural awareness and understanding.

MR. MUNROE: In answer in part to your question there will be the Institute of Canadian Indian Arts folks to provide a small gallery space to exhibit a variety of visual art. The gallery will endeavour to attract traveling exhibitions from various regions of the country, and the art gallery would provide a space in which students could exhibit their work to the community and to others that wanted to come to the institute. So the gallery itself would act as a vehicle for the institute to attract people from Edmonton or from all over Canada.

MR. CHAIRMAN: Mrs. Koper.

MRS. KOPER: Thank you, Mr. Chairman. I really am impressed by the initiative of the Samson Band and your attention to education as a priority. I think that it's really commendable.

In regards to this Bill and the proposal, I notice the briefing notes on page 3 talk about a diploma certificate as opposed to the original idea of a degree. So, do I understand correctly when the transfer credits that you have proposed with the Alberta College of Art would eventually lead to a degree? That's my first question. Alberta College of Art hasn't yet got degree status but they are working toward it, and I would see that as your being part of the move.

MR. CHAIRMAN: Mr. Munroe.

MR. MUNROE: Yes. In answer to your question it is because the Alberta College of Art is presently in discussions, primarily with the University of Calgary, and has not determined the exact structure of the transferability agreement. What we're doing is teaming up with the Alberta College of Art in the beginning. The courses the students take at the institute will be transferable to the Alberta College of Art. Some of those classes are transferable to the University of Calgary and to the University of Alberta presently. So it is our hope that as things move along with the discussions with the Alberta College of Art, we could attain transferability to the university.

MRS. KOPER: Do you feel, then, it's necessary to mention degree, baccalaureate degrees, in your Bill?

MR. KNAAK: Maybe I can answer that, Mr. Chairman. We do think it's important that if you mention in the amendment that Mr. Clegg has -- maybe, Mr. Chairman, I could just do a little bit of history on all the amendments. We drafted the Act, and then the objection came forward that we shouldn't have a direct legislative power to grant a bachelor degree, and it was set out more as one of the objects. One of the objects was ultimately to aspire to grant degrees, so it was more set out from a lawyer's point of view as an object rather than a power -- lawyers make a distinction there sometimes -- and there was an objection raised. We acceded to that objection and developed another amendment which we took up with the department, which I drafted and which I don't think you've seen. But it reads something to the effect that we take out the word "degrees" where it presently is and it says that

> subject to an Order of the Lieutenant Governor in Council pursuant to the Universities Act . . . the College may grant degrees permitted by the Order subject to any conditions specified therein.

And then it goes on:

> subject to the requirements of the Universities Act . . . and the terms of any affiliation agreement with a University, the College may provide programs of study

and instruction in courses acceptable to a university as constituting a full years work towards an academic degree.

In substance, those amendments were approved by the department, and we have a letter from the department approving them, so that we're talking about the substance now. Then that amendment went forward without the input of Mr. Clegg, and Mr. Clegg has further revised that part of the amendment. I've just got to move my pile of papers; it's not immediately before me. Oh, I've got it now. The amendment now reads:

> The College may grant baccalaureate degrees only as permitted and subject to any conditions specified by order of the Lieutenant Governor in Council, made pursuant to section 64.5 of the *Universities Act*.

Those things all say the same thing.

MRS. KOPER: Do they?

MR. KNAAK: Yes, they do from our point of view. So we're satisfied with substituting that provision instead of the provision that we had originally suggested to the department and that they had approved of. It's just combining into one paragraph what we had in two. So we're satisfied. But it should be there somewhere as an object, because it has a purpose. And that would suffice.

MRS. KOPER: Thank you. I understand it will be on the Samson Reserve and, through the Chairman, I am wondering if this will make it readily available and accessible to all other bands as well as, I guess, other people in Alberta.

MR. CHAIRMAN: Chief.

CHIEF OMEASOO: Maybe I could answer that partly. That is the intent. As the demand for the program increases, we'll try and accommodate others. It's started by the Samson Band, but we have three neighbouring bands at Hobbema. I don't know whether the members are all aware, but a lot of things are done at a four-band level. But a lot of times when you have -- just like the white man says: too many cooks spoil the soup. Just one starting it -- a lot of times we just can amalgamate and make things better.

MRS. KOPER: Very good, thank you. My last point, and a very brief answer, I'm sure. You mentioned somewhere -- at least I think Mr. Cut Knife said something about dancing and music as well. Would that be incorporated into the centre?

MR. CUT KNIFE: Eventually. Actually, what we've done is taken a piecemeal approach towards the project. As stated in your materials, we'll be introducing two faculties, which are the art and the communications. Yearly we'll introduce maybe two or three additional faculties. So our progression is slow. We want to approach it very cautiously.

MR. CHAIRMAN: Mr. Day.

MR. DAY: Thanks, Mr. Chairman. I appreciate this presentation. It's very well laid out for us to follow. Just a couple of quick questions, either to Mr. Munroe or Mr. Knaak. In your (a) section here, page 6, you talk about:

> The Samson Band has already made a substantial financial commitment to the Institute amounting to over $760,000.00 and have committed funding for the 1st year's budget.

The first question would be: what do you foresee for subsequent years, both in terms of dollars and terms of a funding source? And then a second question, quoting from section (b), page 12, under "Instructors." It says: "Instructors should have post-secondary educational qualifications." In the case where they wouldn't have those postsecondary educational qualifications, could you just give us a rough idea of what you would see as acceptable in lieu of postsecondary qualifications for an instructor?

MR. MUNROE: I think I could answer your second question first, with respect to the faculty. It will be the goal of the institute to attract as many instructors with postsecondary education as possible. However, there are several self-taught native artists who have not obtained a degree. However, they would be suitable to teach at the institute. For example, Mr. Alex Janvier, a very well-respected Indian artist from the Cold Lake Reserve, has expressed an interest to teach at the institute. However, he has not a postsecondary degree but teaches at the University of Alberta, in the faculty of art. So we have that in there to accommodate those types of people.

In answer to your first question, the contribution from the Samson Band for the most part is made through the communications department. The Cree Tribal Studio was established in 1986 at the cost of approximately $650,000. The studio is presently operating and a training program is in place. The communications department will be rolled into the institute and will form the communications component. Now, that's where some of this $760,000 comes from.

The institute has recently joined as an associate member of the Canadian Centre for Philanthropy, and is presently seeking funding for the institute from the private sector and working with various government departments in this area.

MR. DAY: And do you have an anticipation of after your first year what are, in terms of dollars, funding requirements?

MR. MUNROE: The first year budget is, if I remember correctly, $175,000, and we anticipate a budget of approximately $0.25 million for the second year.

MR. CHAIRMAN: Mrs. Hewes.

MRS. HEWES: Thank you, Mr. Chairman. I, too, had some questions about the funding. I want to thank you for the presentation -- it's an excellent one -- and also for the initiative. I think it's the kind of thing that's overdue, and it's needed to happen for a long time.

I also want to comment on the really substantial commitment that's been made by the Samson Band in terms of money, Mr. Chairman. I understand from your answers to Mr. Day that the band is prepared to continue at least in the forseeable future. Would that be correct?

MR. MUNROE: That is correct.

MRS. HEWES: Full operating. You're going to keep it going?

MR. MUNROE: That's right, but at the same time seek out funding from the private sector and from various government departments.

MRS. HEWES: And that is under way, Mr. Munroe, is it?

MR. MUNROE: Yes, it is. We have received a small grant from the Canada Council in Ottawa for a visiting artist program, which will allow the institute to bring to Hobbema various native artists for workshops and discussions, thus creating interest in the newly established school and attracting potential full-time students.

We've also had some indication ... Although we are just beginning our campaign for funds now with the private sector, Amoco Canada has indicated that the proposal we have submitted to their committee will be recommended for funding. However, we have not been told of the amount that it will be.

MRS. HEWES: So you are under way. Mr. Chairman, I have a couple more questions. I appreciate that this whole program is going to be phased. You're moving into it at a measured rate, one that you can absorb. Is it anticipated, gentlemen, that this will be a residential program from the outset? How are you going to manage the student body?

MR. CUT KNIFE: I guess that would be optional. We do have some facilities in our community that can accommodate students who live within the community or in the surrounding counties and towns.

MRS. HEWES: And these others presumably would be developed as the demand or need increased.

MR. CUT KNIFE: Yes, they would be.

MRS. HEWES: Mr. Chairman, just one last question. What's the timing on it? What's your objective and timing for getting started with the core program and moving on from that?

MR. CUT KNIFE: Well, I guess our immediate priority in that would be the Hobbema community. We're hoping that we could have something established by September and, again, the calendar for the 1988-89 school year during the spring terms.

MRS. HEWES: Thanks, Mr. Chairman.

MR. JONSON: Mr. Chairman, really my question is to ask our guests to respond to the last question of Mrs. Hewes and the previous one from Mrs. Koper. I think our guests are perhaps a bit modest in describing the facilities that exist at Hobbema and among the four bands. I wonder if they could perhaps comment on Muskwachee College, where the day care centre is located and so on. I'll get a different answer I guess, but this is a rather major centre in Hobbema, with many excellent facilities. It can easily accommodate the college of arts and students, in my view. But perhaps you could elaborate a little more on the facilities that are there that would complement this type of institute.

MR. CUT KNIFE: Technically, the Cree tribal administration has been transferred to the Samson education department and trust fund. At the outset we wouldn't be able to accommodate two faculties. We are looking at a campus concept. We do have access to some facilities in the community, which we haven't finalized yet. So our present focus, I guess, is the Cree tribal administration building.

MR. JONSON: I was just going to comment, Mr. Chairman, that there are many support services right there for students who might want to travel there and also in due course, if there were residential students, maybe they could be accommodated too. That should, in my view, be considered.

MR. CUT KNIFE: I guess outside the education program, within the Samson Band administration we do have a housing program, which I believe is presently looking at the idea of apartments.

MR. CHAIRMAN: Would anybody else like to supplement that? If not, I'll go on to Dr. West.

MR. BRUNO: Mr. Chairman, if I may, there are several concerns here that are being brought out, one being the last comment that was made about services. There are other services that would work hand in hand with the proposal that is in front of you. There are a number of day care centres as well as others, housing projects, that are currently under proposal and that would work hand in hand. As the chief stated, as we grow, I guess we will offer other services. I would just like to reiterate what the chief stated on the fact that we can accommodate other reserves as well as accommodating non-Indian members. As the facility grows, we can do that. I think we have the services right now that could look after the needs of some of the people traveling distances. Thank you.

MR. CHAIRMAN: Dr. West.

DR. WEST: No.

MR. CHAIRMAN: Mr. Wright.

MR. WRIGHT: I have my usual observation that in many of these Bills, Mr. Chairman ...

MR. CHAIRMAN: About winding up?

MR. WRIGHT: Yes.

MR. CHAIRMAN: Well, I guess we're getting close to winding up, so this is a good point to bring it up.

MR. WRIGHT: If I might suggest that the petitioners would do well to consider a clause along the lines that upon dissolution of the institution the assets should be transferred to such eleemosynary institution as in the opinion of the board of governors has objects that most nearly conform to the objects of this institution, to which such transfer would be practical, or something like that.

MR. CHAIRMAN: I guess, Mr. Knaak, that Mr. Wright's question is: would you have any objection to something like that being added?

MR. KNAAK: I'd have no objections if the winding-up provisions didn't preclude transferring the assets back to the Samson Band, where they came from. There is $860,000 worth of communication equipment being transferred to do some improvements and so on. They're a gift from the band to the institute, so if they want, it should be gifted back.

MR. CHAIRMAN: I suppose what Mr. Wright is also saying, in fairness, is that that could be covered. But comments were made that various other governments are going to be asked to contribute in the future. Maybe the initial . . .

MR. WRIGHT: Or charitable donations. Whatever is reasonable. It might save -- we hope a long time in the future, or never -- a trip back here, that's all.

MR. CHAIRMAN: We hope it's never.

MR. KNAAK: We can combine those two into the winding-up provision. That can be accepted.

MR. CHAIRMAN: Mr. Younie.

MR. YOUNIE: Just a closing comment. I would hope that at some future point, when your facility is in full swing, MLAs might be able to come down for a tour and see the results. It looks to me to be a very interesting and valuable institution you're proposing. Besides hoping that my grandchildren might in the future attend there as students, I would also like a chance to see it myself at some future time.

MR. CHAIRMAN: Thank you, Mr. Younie. Chief.

CHIEF OMEASOO: Maybe I could respond to that. I think that's something that's really needed, because a lot of times in a white society you have a misconception of how things are done in a native society. This interchange of cultural information is important to us parents. As such, I'm pretty sure the persons who will be in charge . . . I won't be directly involved, but I hope I can get some reports. Every so often I intend to follow this up and what we could do to make others aware, and especially persons in positions that could sway things.

I guess with that, since there won't be much more, as I see we're just at closing time now, I'd like to thank all of you. I feel there's a positive response.

MR. CHAIRMAN: Thank you very much, Chief. On behalf of the committee, I think we certainly want to express our appreciation for the generosity of the Samson Band in sponsoring this initiative.

If there's nothing further . . .

MR. KNAAK: Mr. Chairman, I just have one small point. Having dealt with the department with the initial objection, I suppose I just want to alleviate any concerns raised initially. The right to grant degrees, which was objected to, has been taken out by the amendment that I proposed and the amendment that Michael Clegg has proposed. So from our point of view, whether we go with the amendment that I've got here, which was approved by the department, or the amendment that Michael Clegg has proposed, either way is satisfactory to us.

MR. CHAIRMAN: Thank you very much.

Members of the committee, just before we adjourn, as you know, a notice was sent out for a meeting tomorrow evening at 5:30. We would expect that it wouldn't take more than 30 minutes to conduct that business, 40 at the maximum. It should be a very brief meeting.

I want to express my appreciation to members of the committee and everybody who has participated for the co-operation, forbearance, hard work, and diligence they've displayed this morning. A call for a motion to adjourn.

All those in favour?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: Opposed, if any? Carried.

[The committee adjourned at 12:23 p.m]