

LEGISLATIVE ASSEMBLY OF ALBERTA

Monday Evening, May 13, 1974

[Mr. Speaker resumed the Chair at 8:00 o'clock.]

GOVERNMENT BILLS AND ORDERS
(Second Reading)Bill No. 41 The Expropriation Act

MR. KOZIAK:

It's been a long time coming, Mr. Speaker.

Mr. Speaker, I beg leave to move second reading of Bill No. 41, The Expropriation Act.

Mr. Speaker, the present bible for expropriation proceedings is The Expropriation Procedure Act, which is found in Chapter 130 of the Revised Statutes of Alberta, 1970. Under the provisions of this Act, Mr. Speaker, the responsibility to determine compensation is split among the Public Utilities Board, the court and the Surface Rights Board, under The Surface Rights Act.

In 1968 a study of expropriation procedures was undertaken by the newly formed Institute of Law Research and Reform as one of its first projects. Almost five years later, a comprehensive study, which most if not all of the hon. members present have now had an opportunity to study in detail, was presented by this institute. It is on the basis of this institute's report that Bill No. 41 has been prepared.

Hon. members will recall that in the fall of 1973 I introduced Bill No. 89 under the same name, The Expropriation Act. At that time it was felt that the matter was of sufficient depth that it would be worth while to receive submissions from the public and from those with expropriating powers to determine how and in what manner they would be affected by new legislation. So Bill No. 89 in its then form was left on the Order Paper when the fall session closed. Over the winter we received a number of thoughtful and studied submissions which have assisted us greatly in the formulation of the new bill, Bill No. 41, which was introduced a few days ago.

Now, prior to the submission and prior to the completion of the institute's report, Mr. Speaker, hon. members here will all agree that generally speaking from the grass roots there was a cry for a home for a home principle for compensation where expropriation proceedings were found necessary. I believe that the first introduction of that principle to this House came in the form of a bill by the hon. Member for Calgary Glenmore, now the Minister of Mines and Minerals, when he introduced an amendment to The Expropriation Procedure Act to provide compensation on a home for a home basis.

MR. LUDWIG:

Mr. Speaker, I rise on a point of order. The hon. member is very wrong in his assessed statement of fact. I introduced ...

MR. SPEAKER:

Order please. Order please. Possibly the hon. member might correct the facts when his turn to debate comes.

MR. LUDWIG:

Mr. Speaker, then I rise on a point of privilege under Rule 14.3, that when something arises in the House which is not true, the hon. member has to get up immediately and correct it. This issue was introduced by me in a speech in 1967. If the hon. member doesn't know, he should not be careless with the facts, Mr. Speaker.

[Interjections]

MR. KOZIAK:

Mr. Speaker ...

MR. LUDWIG:

They are still trying to take credit for something ...

MR. SPEAKER:

Order, please.

MR. KOZIAK:

Mr. Speaker, I had fully intended to give the hon. Member for Calgary Mountain View credit for introducing ...

MR. LUDWIG:

I don't believe it.

[Interjections]

MR. KOZIAK:

However, I'll strike that section out of my speech.

Getting down to the shortened version of my speech, I'm sure that hon. members from both sides of this House will wish to enter into debate on second reading of Bill No. 41, so I will try to be as brief as possible on second reading in highlighting the principles of the bill.

I would like, at first though, Mr. Speaker, to just put things into perspective by reminding hon. members that expropriation proceedings are commenced either by the Crown or by a municipality, or thirdly, by some other body with expropriation proceedings such as a hospital board, perhaps a pipeline company or the Alberta Government Telephones. Basically they fall into those three categories: the Crown, a municipal government or another body. The present Expropriation Procedure Act, which is now in force and effect, is divided into three parts setting out the procedures for expropriation for each of those bodies and each of those powers.

What is particularly of interest to the hon. members present is the fact that in the case of an expropriation by the Crown, the owner of the property may not even know that he is being expropriated until after he has lost title to his lands. In other words, unless there is a voluntary provision for negotiation prior to the commencing of the expropriation proceedings, the only legal provisions are that the title changes hands the moment the appropriate document is filed at the Land Titles Office. So that you may have an individual sitting in his home and finding out from his evening mail or his afternoon mail, depending on when it comes nowadays - it does come sporadically - that his home is being taken away by the Crown for a highway or for whatever purpose. The new bill will do away with that type of problem and that type of difficulty.

One of the more exciting features of the bill, Mr. Speaker, is the inquiry procedure. Under present expropriation law the only thing that an owner can question when his home, or a part of his farm or what have you, is being taken is the amount that he is being paid for that home, for his residence, or for a portion of his farm. He can't in any way object to that land being taken, to that house being taken, only to the amount that will be paid to him.

Well, Mr. Speaker, Section 6(2) of the act provides that the owner may question whether the taking of the land, or the estate or interest therein, is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority. The first portion of the act, Mr. Speaker, provides for an inquiry procedure which permits the owner then to object and be heard before the taking. So if the Department of Highways decides that it needs a particular home for a freeway, or if the City of Edmonton requires a parcel of land or portion thereof for a bridge, before anything happens it must serve a notice of intention to expropriate. That notice of intention will advise the owner that

he has certain rights to object, and if he objects he will be heard by an independent inquiry officer.

Presently, if you wish to object to an expropriation by a city or a municipality the only recourse you have is to the municipality itself. You can appeal before the council of the municipality to voice your objections, but not before an independent person who can study the matter independently from the pressures of council, independently from the pressures of commissioners and independently from the pressures of certain voting groups. I feel that that is probably one of the highlights of this bill and a very important principle in the whole area of expropriation law.

I might point out that in this respect there is a certain change between Bill No. 41 and its predecessor, Bill No. 89. This change flows from some of the submissions we received.

In Bill No. 89 the situation was such that the recipient of a notice of intention to expropriate would automatically assume that he has to object, even if the only thing he was concerned about was money. We have corrected that in Bill No. 41 by adding a subclause (g), which makes it clear to the owner that if he is dissatisfied only with the amount offered, and not with the expropriation itself, he does not have to go through the inquiry procedure, and that other provisions will be available to him in order to be heard in the matter of the amount that should be paid to him.

A very important feature of the inquiry procedure is that the owner does not have to worry that in going through the inquiry procedure he will be put out in the way of costs, legal costs, appraisal costs or what have you. Provisions are made in the bill whereby the reasonable costs of the owner of land being taken are paid for by the particular body that wishes to expropriate him, so that he is not put out in any way as a result of these proceedings.

Another change from Bill No. 89 that is found in Bill No. 41 and that I would like to bring to the attention of the hon. members, Mr. Speaker, is in connection with the board. In Bill No. 89 there was one board called the Land Compensation and Surface Rights Board, which was in effect the existing Surface Rights Board created under The Surface Rights Act with a few new members. We received submissions from Unifarm and representatives of farm groups who were extremely satisfied with the operation of The Surface Rights Act and the Surface Rights Board, and, having regard to that fact, felt that we should not disturb a good situation. We have left the Surface Rights Board with exactly the same jurisdiction that it now has under The Surface Rights Act and The Expropriation Procedure Act, but only following the new bible, The Expropriation Act, in terms of what principles it must follow in awarding compensation.

A new board has been created to take over the responsibility of the Public Utilities Board in those expropriations not handled by the Surface Rights Board, and that new board is the Land Compensation Board.

I bring this to the attention of the hon. members, Mr. Speaker, I bring this to the attention of the hon. members, Mr. Speaker, because it is a change from Bill No. 89 which was introduced in the fall of 1973.

A very important feature of Bill No. 41, Mr. Speaker, is the proposed payment. As the law now stands, your land is taken under expropriation proceedings. If you do not accept what is offered to you then you must take the proceedings that are available to you whether they be before the Surface Rights Board, the Public Utilities Board or the courts. In the meantime, you neither have money nor your land. Now a very important concept is contained in this bill and it is this, that once the expropriation has been approved by the approving authority a proposed payment must then be made by the expropriating authority to the owner of the land.

Say a pipeline company in this particular case has to go through the middle of the house. It then has to come to the owner and say, now we've received approval for our expropriation. We've made an appraisal of your home and we think it's worth \$30,000. Here is \$30,000 and here is our written appraisal to back it up. At this point the owner is still in the house. The owner can then say, well, \$30,000 is not enough. I've got this and this and this. If I have to move, if I have to find another home, it is going to cost me \$45,000. He can take the \$30,000 and fight for the remaining \$15,000.

He does not have to be a pauper while he is pursuing his remedies. He is given the amount that the taker suggests is fair without any prejudice to his rights to pursue an additional amount which he thinks is fair. This is very important because quite often in expropriation procedures the owner is in fact bullied into accepting what is offered to him because he doesn't have the wherewithal to purchase new accommodation, to make other arrangements. This corrects that inequity.

When he receives this proposed offer - in this particular case let's say it was \$30,000 - he also has the right of hiring a qualified appraiser to make an independent

appraisal of his property. So he can compare and determine whether or not he is in fact being offered a correct amount. And he can determine whether he should be asking a larger amount. The cost of that appraisal is not born by him, nor should it be. He isn't the one who wants the expropriation proceedings. These costs are born by the taker.

He is also, pursuant to the same section, Mr. Speaker, entitled to seek independent legal advice in regard to the proposed expropriation. In doing so he doesn't have to worry that he is putting money out of his pocket because, of course, he didn't want the expropriation to take place. It is the taker who wanted the expropriation, who wants his property. So the bill provides that the taker must then pay for that independent legal advice, for that independent appraiser.

Of course, Mr. Speaker, Section 45 is the all-important section which provides and enshrines in this legislation the home for a home concept in all expropriation proceedings. So an individual who is a resident of his own home and is expropriated is not paid market value but is paid the amount that it will cost him to relocate his accommodation, his residence. That, Mr. Speaker, is an extremely important provision, particularly in this day and age where you have varying property values and varying amenities.

It goes further than that, Mr. Speaker. It permits for an increase between the time of compensation and the time it actually takes to acquire the new home. It doesn't settle the compensation as of the date of expropriation, the additional compensation to relocate, but in fact takes into account the actual relocation costs; a very important feature of this bill, Mr. Speaker.

Coupled with that, in Section 48, Mr. Speaker, is the provision which recompenses the owner for his costs in finding new accommodation. The provisions are that he is to be paid the greater of the actual costs or five per cent. This would cover such matters as real estate commissions, legal fees, whatever is required for that individual to find accommodation at least as good as what he was forced to leave.

The bill, Mr. Speaker, does another very important thing. It codifies the law of expropriation. Particularly it codifies the principles of damages, not only for residences but for all types of property, be they commercial, farm, lease properties or industrial properties. Provisions for compensation are codified in this act so that a detailed study of judge-made law is not necessary for a quick analysis of what an individual is entitled to upon expropriation.

Another interesting provision, Mr. Speaker, is that a decision of both the Surface Rights Board and the new Land Compensation Board can be appealed both on law and on facts. That is an extremely important judicial principle that some laws don't take into account when boards are created. This provides an appeal board, on a point of law and on fact, to the Appellate Division of the province of Alberta.

Again when the question of compensation comes up, when an individual wishes to pursue his remedy beyond the proposed payment that has been offered him, he is entitled to his reasonable costs. He is not in any way badgered into accepting something less than he feels he ought to, because of possible expenses he might be put to in defending or prosecuting his position.

Mr. Speaker, I am sure that members from both sides of the House will have a great deal to add to my comments, and I would be pleased to add [their comments] to those of the concerned individuals who have written to me over the past six months advising me of their feelings on Bill No. 89 and now Bill No. 41 and of their support for the principles contained in this bill.

MR. HENDERSON:

I would just like to ask the hon. member who moved the bill if he or the government has prepared an administrative or procedural flow chart that would be made available to the members. I think it would be of value in simplifying interpretation of the procedures in the bill.

MR. KOZIAK:

I'm not quite certain what the hon. Member for Wetaskiwin-Leduc is referring to. Is he suggesting a flow chart showing the changes between the two bills?

MR. HENDERSON:

No, Mr. Speaker. If I may just clarify it, a procedural flow chart which outlines that in step A they do this, step B they do this - they go on step by step in all the procedures spelled out in the act. In other words, a flow chart which covers the same ground covered verbally in the act with just the procedures that are followed in the execution of the legislation.

MR. KOZIAK:

Mr. Speaker, I could prepare such a flow chart. I think I understand what the honourable gentleman, the hon. Member for Wetaskiwin-Leduc, is referring to. I believe what he's saying is the steps that take place when the act is followed. In other words, first of all the notice of intention to expropriate is served, filed, published and then the owner has the right either to object to the inquiry procedures or what have you. I think something like that can be prepared, Mr. Speaker.

MR. TAYLOR:

Mr. Speaker, could I ask the hon. member a question? I'm wondering if the hon. member would deal with injurious affection before he concludes. I know it's in the act. I want to know his views on how it changes.

MR. KOZIAK:

Thank you, Mr. Speaker.

With respect to injurious affection, it is covered in the act. The only thing I should perhaps bring to the attention of the House is that the philosophy behind this act is as follows: what is being attempted is to compensate the owners who are expropriated. It's compensation as a result of expropriation which counts in this act. Now, included in that are such damages as flow to the remaining lands which aren't taken as a result of (a) the expropriation, and (b) the works that are ultimately constructed on the lands expropriated.

Under the existing Expropriation Procedure Act, not only does the owner who has lands taken from him have the right to claim for injurious affection, but also his neighbours have that same right to claim for injurious affection regardless of the fact that they have not had lands taken from them.

The problem with enshrining that type of philosophy in The Expropriation Act is this: the owner of lands who is affected by some particular public work must rely on an expropriation somewhere in the vicinity in order to tie his claim for damages to that expropriation. Now if, in fact, everybody settled willingly and sold their lands and there was no expropriation, that would then mean that the surrounding owners wouldn't have a claim. Under The Expropriation Procedure Act the claim is tied to the expropriation and not to the construction of the work.

The philosophy which this bill contains and which the report of the institute provides for is that only those damages arising out of expropriation should be dealt with in this act. Damages for injurious affection to other people caused not by expropriation but by the construction of the work should be dealt with in another act.

To ensure that people who now have a remedy are not in any way adversely affected, there is a consequential amendment to The Proceedings Against the Crown Act which appears in Bill No. 41 to ensure exactly the same remedy as presently is available in The Expropriation Procedure Act. The position is not any worse in that respect. Bill No. 41 is a document, is law pertaining to those damages which flow from expropriation, not from the building of the cesspool or the building of the highway or what have you, because those damages can flow regardless of expropriation. All the people can sell willingly. That matter has to be dealt with in other forms of legislation, if not in judge-made law.

MR. LUDWIG:

Mr. Speaker, first I wish to commend the hon. member for bringing in such an outstanding bill. I firmly believe it will be a model for other jurisdictions to follow. I also believe that it indicates an awful lot of research. The hon. member must also have had the benefit of legislation of other provinces and the benefit of the advice in the briefs submitted to the hon. member by the law reform institute. One must also pass on to them compliments for having done such an extensive study on an issue that needed to be dealt with rather urgently.

Now, Mr. Speaker, it is not really the basis of this bill to determine who was first with what, but in view of the fact that the hon. members opposite are rather quick on the trigger to grab credit for whatever they can, if it was worth bringing into the bill, it's worth keeping the record straight. I did not raise the issue but I believe that keeping facts straight, even though they are not too important, is an importance - it is to me and it is to the hon. members. I'm sure that most of them will agree that the home for a home concept was first introduced in a short speech by myself in this Legislature in 1967. The concept was well enunciated at the time, and nothing was done. The government of the day did not proceed with the recommendation that I made. It wasn't always easy to convince governments that reform was necessary. I believe that by the time I'm finished it will be established that this government is no exception.

The hon. member who is now the Minister of Mines and Minerals brought in one short amendment to the expropriation Act of the province, indicating that he would wish legislation that would provide a home for a home concept in expropriation proceedings. Then the hon. members who are now the government made that one of their campaign programs, one of the planks in their campaign. So three years later they've come up with a bill, and it's a good bill. I must admit that one of the more capable members on that side was chosen to bring in this bill. But nevertheless, even on trivialities, Mr. Speaker, facts and truth are important. I hope the day never arises in this House when technicalities are used to try to prevent the whole truth from being brought to the floor of this House. If the hon. members opposite sometimes get a little carried away and careless, the record ought to be kept straight by those who were sent here for that particular purpose, and that is the Opposition, Mr. Speaker.

Once more, I don't want to detract anything from this very outstanding bill and the capable manner in which it was presented by the hon. member, Mr. Koziak. I will not deal with what is in the bill, but [with] what has not been put into the bill. This may be a forward-looking bill as far as the hon. members are concerned, but it doesn't cover all the problems that society faces at the present time with regard to the taking of property, reducing the value of property, by other means than expropriation, Mr. Speaker. For that reason I believe that the Opposition ought to keep the government alert and, as usual, be a full jump ahead of the government and raise problems that need to be dealt with, not in a conservative manner, in three or four years from now, but when they arise, Mr. Speaker. These problems are here today. These problems were here years ago.

The accent is being placed on problems of people losing value in their property - losing the equity in their property - not through expropriation but through some other action. This is now a recognized problem. It's recognized in the United States, it's recognized in Britain and it's recognized in Canada. There was a commission study in British Columbia which recognized the problem of individuals losing value, particularly in their homes, not through expropriation but through some action of the government, or some planning problem - changes in the planning of roads or construction of roads, changes in the zoning of an area or changes in which neighbouring property is often put to use. It can take away the value of a home as effectively as if it was one-half expropriated, 75 per cent expropriated or entirely expropriated.

Things have happened in Britain and in some parts of the United States when through the construction of certain works in an area, either a government institution, a government project or commercial works - that completely deprived the owner of his ability to recover the value of his property, to get anything out of it. Sometimes things were so extreme that the owner had to walk away from his property and abandon it. Nobody would buy a home neighbouring a certain commercial works or a certain government institution.

The time has come when we have to look at this kind of social problem and bring it into legislation, whether it be under this act or under some other appropriate legislation. The social concern for devaluation of one's property other than [through] expropriation has to be met.

I am sure that the advice the hon. member who introduced this bill received perhaps covered some of these points. They will all wind up by saying, perhaps it's a little bit too forward. We're not dealing with this particular aspect in an expropriation act. But expropriation, whether by direct authority of an act such as this - and I must admit that there are some tremendous improvements for the owner in procedure, cost and remedy - taking something from an individual, whether it be a home or property, through legislation and depriving him of the value of the property through some other government action is equally damaging to an individual. In fact, it may be more damaging to a home-owner to have his property depreciated through some planning or some construction or use of some neighbouring building than it is by expropriation. At least in expropriation they have the home for a home concept now, where he is at least placed in as good a position - I presume a better position than he was in before.

When you have property depreciated by the construction of an institution or by planning, there are other terms used for such problems in the U.S. and in Canada but in Britain they use the words "planning blight", where planning can deprive the owner of the rightful use of his property, by means perhaps of resale, because he doesn't know what's going to happen there. Therefore he can't sell. This has happened in Calgary, in particular with the Crystal skating rink area. The property was frozen to any further construction for many, many years because the government had some plans for the area. For a number of years, I believe as high as seven, the people who own the property were kept in suspense, in a position where they could not sell their property because of certain planning decisions by the City of Calgary.

Now, this is the position that I am saying ought to be dealt with at the earliest possible date. I am sure that the hon. member who brought in the bill is well acquainted with everything I am saying. But it is rather unusual that when we say we are forward-looking, that we've studied and we've brought in a bill to supercede all bills in

expropriations throughout the whole country, we still cannot seem to deal with a problem that is so obvious, so damaging and so painful to many people.

I would like to make one more point. That is, not the new but the more recent concept that expropriation or any common law remedy to a home-owner for a loss of value of his property because of use of neighbouring property has not been recognized. But it is being recognized now. I have to state that there is an example in my constituency where, I believe, the use of a certain property has in fact depreciated the value, at least in the minds of the people who live there. That is, in many instances, sufficient. But I also believe it has depreciated the value to such an extent that it can be established as a fact by assessment, appraisal and perhaps the market for homes.

The alcohol and drug abuse centre in Renfrew has in my opinion devalued the property in its vicinity. Now, some might stand up and say this is not so, this is rather petty. But when an individual's house or property has been devalued it is not a petty problem to him. And it's up to the hon. members to come here and raise these problems, to see if the government needs to look at it and determine whether this is in fact so.

Now, someone might say it might enhance the value of the property. I say that it did not, that it reduced the value of the property, Mr. Speaker. It's a question of fact that some people have left the territory. Some people find that buyers come around and find that they are neighbouring to a detoxification centre, and say, no thank you, we're not interested.

So here is a good start to determine whether the property is devalued. If it is devalued, we should have a remedy for the aggrieved so the pleas of the aggrieved do not become pleas of despair. It's all right for us to sit here and smile - we live far away from the area so it doesn't affect us. In fact, one member of the commission stated that. Oh well, he said, I don't think it will depreciate the value of the property. But he lives in Mount Royal. It won't depreciate his. I feel it's the responsibility of those members who have this kind of problem to raise it to see if we cannot advance the thinking of the hon. members to the point where something can be done about it.

I make no apologies for raising this problem, although some hon. members might feel that it's a light problem. I say that it is never a light problem or a small issue when an individual has a grievance he cannot resolve. Petitions of right have been brought to parliaments, to legislatures, because of the grievance of an individual. I have discussed this matter with some hon. members and with some people beyond the Legislature who agree that this is a problem. So I am urging the hon. members to come up with something that will perhaps take care of this particular problem.

These kinds of problems generally hit those areas of less affluence. The well-to-do can always fight rezoning; they can always fight change in planning; they can always engage the right kind of help and come out with a fair deal. But in those areas where the people are not quite as affluent, generally they have to knuckle under. The day has arrived, I believe long ago in this province, when the plight of the people, even if it might be one, two, three or a hundred, must not go ignored.

I'm putting up a plea to all hon. members, but particularly to the hon. member who has done such a tremendous job on Bill No. 41, not to let this other issue lie unresolved. If someone feels that this is perhaps just a minor issue, I can find a lot of people who are concerned today because a road has been put through their district and they are anxious to move out at a loss. I'm not saying that the road shouldn't go there or that an individual should stand in the way of the advancement of the common good. But on the other hand, if it's for the public benefit let the public compensate the individual. I believe that is a recognized principle. Certainly one has to give up his house if a highway is going to go through the middle of it. But he mustn't give it up for nothing. This bill recognizes the principle that he not only has to be compensated but relocated.

The home for a home concept, in my opinion, is one of the finest concepts of the recognition of the plight of people who have to yield to the needs of society in general. I'm saying that society can well afford to compensate an individual whose property was reduced by half a lot better than the individual could suffer the loss himself. In many cases this does create a hardship. Some people will not move. They will live under adverse circumstances; circumstances which were worse than the individual was in before the road change was made, or before the public work was created, or before the institution was built next to him, or before the neighbouring property was put to a different use, in all likelihood through government action or with the aid of the government.

We know that in east Calgary at one time there was a residential area. Someone built a mushroom plant there. Well, mushrooms are nice to eat but they're not nice to smell when they're being raised. The people cried and complained for years. I'm not saying that the previous government paid as much attention to these problems as I would have liked to have seen it do. Nevertheless we're now in 1974, we're on top of this issue, we're dealing with reform. This is the time to raise it and to see whether we can do something about it.

Another serious problem that existed in east Calgary was an iron works where they melted down car bodies. The neighbours had to put up with burning rubber, the burning of all sorts of tars and rubbers and plastics that are on an automobile, and oil and what have you. The smell was unbearable. But these people put up with it for years. I believe that in the hon. member Mr. Dixon's constituency there was a poultry processing plant. The problems there had depreciated the value of property to the extent that people were virtually walking away from their own property.

If this is a problem, and we know it is, the question then is, can we do something about it? I'm saying that we can. I urge the hon. member to perhaps comment on these problems and say if there's any contemplation or plans to study them, because sometimes these are not hard and fast or obvious facts as you have in expropriation where you can appraise the property and make a deal, perhaps, with the owner, find him another home and everybody's happy.

Sometimes it's a lot more bitter than that, Mr. Speaker. When a person says that he can't sell his house which is worth \$40,000 today because the government planted an institution beside him, and says that he can now get \$20,000 for it, we have a responsibility to compensate him and to help him find out just how much he did lose.

I'm sure there are people who would perhaps jump on excuses like this to see if they can get something from the government or from the authority responsible because they have built something beside them, but these are questions of fact. You can establish loss just as carefully, as easily and as definitely as you can establish the value of property and expropriation. Perhaps you can negotiate the loss.

The one excuse I hear is that this might give rise to many, many actions in a district for compensation for loss of value of property because of government action. That need not be so. There could be such a thing as a procedure set up to deal with class actions. If 50 home-owners in a district feel they were deprived of the value of their property, Mr. Speaker, by government action, by government institution, or the government's permission to build some kind of works that depreciates their property, then there ought to be no hesitation in providing a means for these people to deal collectively with the problem.

It isn't easy. Somebody might feel, well, this is an advanced problem that's ahead of its time. Well, it is the Opposition's responsibility to push these ideas, because the government obviously will not. When one says, well, it's complicated, it's difficult to assess, it might open up a brand-new can of worms, it might lead to proceedings against the Crown or against the expropriating authority, it might cascade and we might get a backlog - all sorts of dire consequences might stem from legislation like that. But, Mr. Speaker, they are no more complex than the bill we have before us.

For instance if we anticipated several hundred appeals to court on expropriation because of this legislation - and it's easily envisaged that this can happen in this day and age - then it would be quite a problem. Dealing with the value of people's property when they lose part of it through some government action, or the use or construction of public works or the use to which property is put by the government, would be no more difficult than the present legislation, Mr. Speaker. I hope that the government will look at this. I've been looking at ways and means of perhaps amending legislation that we have now, and perhaps the best place to tackle this thing would be with The Expropriation Act.

I would also like to urge the hon. member who introduced this bill that there may be a number of homes in the process of expropriation at the present time. I would like to make a recommendation that this legislation be made retroactive to cover - and I don't know how far back one can go - any houses which are in the process of being expropriated in the province of Alberta at the present time.

Thank you, Mr. Speaker.

MR. DIXON:

Mr. Speaker, I would like to say a few words on the principle of Bill No. 41. I would like to say, Mr. Speaker, that [this is my] first opportunity to congratulate the member for bringing it in, but in particular [I congratulate] the hon. Member for Calgary Mountain View because over the years he has fought hard for the property owner, and in particular those property owners who face expropriation. He has had a lot of experience, I know, both in his legal practice and in his work as a member of the Legislature. He has been consistent in his support for the home for a home concept, and I'm sure if it is a victory for the government and one of its members, it is a double victory for the hon. Member for Calgary Mountain View.

I understand, Mr. Speaker, that the members opposite get quite uptight when somebody from this side of the House has had a good idea.

DR. WARRACK:

I'm uptight.

MR. DIXON:

They jump on it and try to make out that it's their idea, just as they have done with provincial parks and everything else lately.

If the hon. Minister of Lands and Forests will just stay quiet for a minute or two, I've got a few things to talk to him about - expropriation and things that he may be vitally concerned about, and I am sure he is.

Mr. Speaker, this is a very important bill because we have had over the years, and in particular the last few years, a lot of expropriation. As the government gets larger, unfortunately expropriation gets larger. I think we are going to see the largest expropriation in the history of our province if the two parks in Calgary and Edmonton bear fruit and come to a final conclusion.

First of all, Mr. Speaker, on the principle of Bill No. 41, I would like to revert back to probably the one case that really brought this bill before the House, or at least helped to bring it before the House, I think, in a stronger way than any other case. It was the case of the urban renewal area in the eastern part of the City of Calgary where the City of Calgary expropriated a gentleman's property which the present Y.W.C.A. has built on. There were a lot of strong feelings in Calgary at that time, Mr. Speaker, that expropriation should not be used in the case of a building for an institution that isn't tied directly to a public works project. They felt that for all [that] the property may be used for a very worth-while purpose. I think you have to try the test of whether it may be a desirable piece of property, is it that essential?

This is where people, I think, have some concern, that the government has to take a serious look at this situation and make sure that when property is actually expropriated there is a really good case for it to be expropriated. It's always easy to say, well, it is in the public good. I think the onus is on the government, on whichever level of government it happens to be, municipal or provincial, to establish a very airtight case before it starts expropriation.

I can remember this gentleman whom the sheriff had to move bodily from his house. He ended up in a hospital that night. I visited him. It was quite a scene, with the Mayor of Calgary, a few of the aldermen, some of the MLAs and the friends of this gentleman. How concerned they were. It was a case where expropriation was carried to the [point] where a sheriff was called in to move a man bodily from his property.

One of the cases that he gave me in one of his arguments - which I thought was a good reasonable argument, considering the man was very upset at the time - was, what will bother me is, they've taken my home, but after whatever is built there, this large project, it will help my neighbours who have not been affected. They will be able to sell out for a greater price than I have been able to sell out for. In other words, I am being sacrificed for the building of this building which is going to enhance the area; just opposite to what some of the hon. members have been saying to you tonight. I think this should be taken into consideration in expropriation. I believe this man's property sold for \$18,000 and I don't believe a piece of property the size of his has sold for anything less than \$30,000 in the immediate area. So he did have a case as you look back at it. His argument was true.

I believe another thing that can affect our citizens in expropriation is where the government comes along, such as they have in Calgary and Edmonton, and freezes the land for provincial parks. Before the government moves into a situation like that, I think they should at least try to inform the people who are going to be directly affected what is going to happen to their property.

Now I want to refer, Mr. Speaker, to a letter that's in The Edmonton Journal tonight. This is quite interesting. What I'm trying to do, Mr. Speaker, is point out the fact that it is not only the expropriation that bothers people, but it is the thing that leads up to it. I think the onus is on any government that is talking expropriation to make sure that the people affected know exactly what is going on.

Now this gentleman, who claims his property could be affected by the so-called capital city park, cannot get any information from anyone. I will just read one or two excerpts from his letter, and maybe the hon. Minister of the Environment or the hon. Minister of Lands and Forests, who had so much to say a few minutes ago, will have his opportunity to defend himself in this case.

AN HON. MEMBER:

Table it.

MR. DIXON:

I shall be glad to table this letter, but I am sure all the hon. members, and in particular the members on the opposite side, are avid readers of The Edmonton Journal whose editorial policy is among the strongest supporters of their government. Surely they would read it, but I shall be glad to table it.

But, Mr. Speaker, I would like to point out one or two of the things this gentleman is saying just to show you that it can be just as hard on residents or individuals when their property is talked about being expropriated or where they are in an area where they could be affected. As the hon. Member for Calgary Mountain View and others have pointed out, that can sometimes be harder on people than the actual expropriation and the price that is arrived at for the property.

The letter starts out, Mr. Speaker, and I am just going to read parts of it:

An election in the air? Full page ads in The Journal for "our Edmonton members" of the legislature paid for by the taxpayer on the pretext of announcing bread and circuses seem to indicate so.

Now here is the important part, Mr. Speaker:

In this case the "Capital City Recreation Park" complete with muddy sketches of a row of igloos on top of a weir, by an artist who can't draw feet. A map without scale or key.

What's this? ...

Now listen to this, Mr. Speaker, to the hon. members, "What's this?" And we are talking about property.

... My house and 60 others shaded mysteriously horizontally. But no key to tell me of its fate. Phone the department of the environment. No, the operator hasn't heard of "Capital City Recreation Park" - where's Capital City? she asks.

Minutes later I'm talking about the "North Saskatchewan Study" to a pleasant but nonplused official, who's fairly sure the artist was working to a tight public relations (political) deadline, and in haste pulled out the old, extinct city parks master plan. He'll check.

Phone the city recreation department. Avoid an adroit blocking tackle by the operator who says she's been told to channel all these calls to "the government" (which department she has no idea). I reach the office of the man I "should perhaps speak to if I really insist." He's out. He does not return my call. The operator says they (the city) don't know anything about the scheme.

"The government" says Dr. Dent's been kept fully in touch but has not told his officials.

MR. SPEAKER:

Order please. With great respect to the hon. member, there is some difficulty in connecting a great deal of what the hon. member is now referring to with The Expropriation Act.

MR. DIXON:

Mr. Speaker, I believe this is definitely in line with what we're talking about. The point I'm trying to make, Mr. Speaker, is it's just as important to let the people know what's going on prior to expropriation as it is when the actual expropriation takes place. I think this is very vital.

Here's a man in Edmonton who is concerned as to what is going to happen to his property. The most important thing is the individual and his property. This is the point I'm trying to make.

Just to end, Mr. Speaker, if you will give me the indulgence of the House for a moment or two. This man is talking about his house. "About my house, who knows? Who knows how to spend my money on a political advertisement that doesn't even convey intelligible information?" I won't bother reading anything further there. The hon. members can read their own.

The hon. Minister of Lands and Forests, Mr. Speaker, will have his opportunity, as you reminded the hon. Member for Calgary Mountain View, to be able to give his ideas and his defence, if this is what he wishes to do, of what is going on. But here is a man who is affected and will be affected by expropriation, apparently on a park. He is concerned

that he cannot get any information from the government or from the city, the two who are involved, and I would like to bring this to the attention of the House.

I believe, Mr. Speaker, that if the government is going to make grandiose schemes about what's going to happen, where they're going to spend all their money, they should maybe spend a few dollars to interview the people who are directly concerned and talk to them and say what's going to happen. Then a week or two later they can run all the large ads they want to run and I'm sure the gentleman will feel pretty good. He'll say, well at least I was consulted by the government prior to the ad appearing in the paper. But apparently there is a lot of unrest. When you think, Mr. Speaker, that over 4,900 acres of land in Edmonton is going to be expropriated in the first or major stages of this park, there will be a lot of people affected.

Therefore I think Bill No. 41 is very timely. I hope it meets a lot of the problems that I'm sure will arise in that large development. What I'd like to say, Mr. Speaker, and a point I'm really trying to make, is that we must, as governments, make sure that before expropriation starts we have a very airtight case on behalf of all the people of Alberta that we really need expropriation.

The property may be desirable but the true test is, is it essential? I think, Mr. Speaker, if the government does prove it is essential it will be much easier to sell expropriation, and at a reasonable price.

Thank you.

MR. TAYLOR:

Mr. Speaker, I want to say just a few words on the bill. I would like to commend the Institute of Law Research and Reform on the recommendations they have made, upon which this bill is based. The institute took a long time to complete its report, I think probably four or five years, but I think it was worth it. That is one thing about the Institute of Law Research and Reform. It doesn't rush things. It takes its time to consider all angles and even though it's a year or two late in arriving, you have something that's really worth while. So I'd like to commend the institute for the third job it has done in the matter of expropriations.

I would also like to commend the hon. Member for Edmonton Strathcona for his excellent presentation.

It would be nice if we didn't have to have an expropriation act. I don't think any body, whether it's government - federal, provincial or municipal - or any company or any other association, likes to expropriate. The facts of the matter are that every government reaches a time when it must expropriate in the public interest. Consequently it's wise to have the very best possible legislation. I think a number of the changes that are in Bill No. 41, such as a house for a house concept, such as a notice of intention, served on owners the same time as served on the Land Titles Office, have been followed by a number of government departments and a number of municipalities for quite a few years.

I think there's strength, however, in having it set out in the act that this be done as a requirement. I think that part is good. The other big improvement, I think, in the act is the fact that the expropriating authority, whether it's the provincial government, a municipality, a company or others, follow the same procedure. I did not like the old Act, The Expropriation Procedure Act, in that it set out a different procedure for the municipalities, a different procedure for companies and other bodies, than that set out for the provincial government. Many municipal councillors objected to this very, very severely.

But I believe that a number of the things that are being suggested have been done. It is wise that they're now set out in legislation. A big improvement I think will result, or can result, depending on how it works, in the Land Compensation Board. I haven't been able to find out exactly how many members are on this board. It seems to be indefinite in the legislation, and I suppose that's something that could be covered by regulation, but I have felt for a long time, as a matter of fact for many years, that there is some merit in having a group, a type of court or board, that would become experts in the matter of land expropriation.

The federal government has really set the example in that respect and they have a court that deals almost exclusively, if not exclusively, with land expropriations. They have become experts. I believe most hon. members will remember the way that court dealt with the land expropriation for the international airport which was a pretty touchy thing. I think they handled it very expeditiously, because they have become so trained and so expert that they are able to know all angles of every land expropriation. I think that's too much to expect from any judge who has a great many other responsibilities and many, many other acts to adjudicate.

So setting up the Land Compensation Board is a very wise move. I notice that the government is not following exactly the recommendation of the institute in this regard. The institute recommended that there be one board. However, I'm not too critical of this. I believe that dividing the work, as has been done with the land surface board for three or four acts, at this time might be a wise procedure. I would hope eventually that these two boards would become one as their expertise develops and they get more and more experience. I really think that a board like that, particularly where there is an appeal to the courts, both on law and on fact - and I commend the government for bringing that item in - is a tremendous improvement. The Land Compensation Board, if manned by able people who want to be fair, honest and just, can really make or break this particular act.

I think the proof of the pudding is going to be in the eating and the proof of this bill is going to be in what happens when it goes into effect. That's going to be the important thing. Is it going to make sure that justice is given to every individual, the poor, unknown fellow who doesn't have a friend in the world? Will he get as square a deal as the rich, influential man who knows all the people who are influential in the province? If that does take place, and I hope it does, then we've moved miles ahead. Justice should be for every individual, not just for those who happen to be well dressed or those who are able to employ the best lawyers, et cetera.

I am very happy with the Land Compensation Board being set up. I would hope that gradually the Land Compensation Board and the Surface Rights Board would become one board in order to follow the definite recommendation as made by the Institute of Law Research and Reform.

There are two other points I'd like to mention.

I asked the hon. Member about injurious affection because injurious affection is something that worries a great number of people. As the hon. member pointed out, the act pins or ties injurious affection to the land expropriated. If I understand the act rightly, others who are affected injuriously by that land, either by works upon it or by the taking of that land, have an appeal to the court. If there is no appeal other than to the court, then this is a weakness in this act.

Scores of people have their property affected injuriously when no land of theirs is being taken. This has been recognized for many, many years. If such persons only have an appeal to the court, then this act could become a lawyer's paradise.

Surely a man whose property is affected, even though no land of his has been acquired, should have a right to appeal to the minister or, at the very least, to the Land Compensation Board for some satisfaction. I am thinking about land that is acquired and in the acquiring of that land and in the construction upon it, you may well drain a lake or a slough that belongs to another farmer. He may consequently lose his watering stock, which is very important. Surely that man shouldn't have to hire a lawyer and go to court. Surely he should be able to set his case before the Land Compensation Board and to the minister so that it can be rectified if it is found to be justified.

Let's not get to the place where everybody's going to have to hire a lawyer and go to court, because most people shy away from court proceedings. They are not at home in the court and they like to stay away from the court. Many people would rather suffer the inconvenience than go to a court. Under the old act at least there was a method there. They could appeal to the minister. The final word in connection with this type of legislation is surely going to rest with the taker who wants to make sure that those who are affected are treated properly. The minister is the elected person to whom people can appeal.

I would like to see the hon. member who is piloting this bill take another look at this matter of injurious affection to make sure there is authority for such regulation, and then in regulation, so such people may have access for redress other than to the court. I don't mind the court as a final place of appeal, but surely all the little things that can be settled should not clutter up the business of the court. It could be done by the Land Compensation Board or it might be done by the actual taker. But I think it is important that it be done.

The hon. member who just spoke mentioned that sometimes the value of land was enhanced because of what happens on the land that is acquired, and that is right. This is a problem, I think, that worries all people who have had anything to do with expropriation. When the land is lowered you're expected to do something about it and make up that loss in some way. But when the land value is enhanced there is no thought then of turning part of that over to the Crown, over to the expropriating authority. It should work both ways, but in practice it really doesn't because you only hear the side where there is a lowering of the value or a depreciation of the value because of what happens on the next land.

I am seriously suggesting to the hon. member that he give some consideration to this matter of injurious affection on the land, that adjoins or on land where there is no land

actually acquired. I have no objection to tying in the injurious affection on the land, where land is acquired, to that particular landowner.

But I'm also concerned about people who are affected adversely because of something that doesn't happen on their land. A number of illustrations could be given. I've already given one and I would suggest another. Land is acquired from a service station operator. In the construction of the public work, the next service station operator is jammed into a corner where people almost have to envision an accident to take their business to him. He is injuriously affected. Although no land of his was taken, surely there is something there that is not right, and should be settled, I think, or tried to be settled by the Land Compensation Board, the Surface Rights Board or the minister. We shouldn't say, you have to go to court with it forthwith. As I said before, if we do we are simply setting up a lawyer's paradise. And it's not going to be a very happy time for those who do have actual injury done to their land.

The only other point I'd like to mention is that I don't know exactly what the relationship of the minister of a department of government or a municipal council, in the case of a municipality, or the board of directors of a company is in connection with the final say. It would seem that it shouldn't be taken completely out of the hands of the people who are doing the expropriating. There should be some place where that body can say, yes, we think this man does have a proper claim. Let's pay it and not be bothered with red tape or not force any more red tape in procedural wrangling. If there is a way out, it means a few cases are settled that way. Consequently it saves the time of everybody, and everybody is much happier.

Altogether I am very happy with the report of the law institute and with the job the government has done in putting this into an act. As I said before, the proof of the pudding will be in the way this act is administered; if it's administered fairly and squarely with a desire and an attempt to make sure that when land is expropriated the person who is affected is not the loser. The public, in whose name the expropriation is done, is the benefactor, and the public should pay the person whose land is affected.

MR. NOTLEY:

Mr. Speaker, just a few brief comments on Bill No. 41. I certainly support the principle of the bill. I think it contains a number of rather important steps forward. The house for a house principle has already been mentioned by other members in the debate and by the hon. Member for Edmonton Strathcona in introducing the bill tonight.

I'm extremely pleased with the inquiry principle. It seems to me that this is certainly an important improvement. I'm also pleased to see that the scope for the landholder is being considerably broadened from just being able to quarrel over price to being able to challenge the whole question of the taking of land, whether the taking by the expropriators is reasonable and necessary. I think that's pretty important, Mr. Speaker, and it's a step I think we can all support.

Equally [important is] the notice of intention to expropriate. I think the Member for Calgary Millican raised that as well tonight.

I was also quite pleased to see the acceptance of reasonable costs being incorporated in the bill. Especially when we're dealing with low-income people, Mr. Speaker, there is the tendency, if they feel they have to pick up the costs along the road, to shy away from standing up for their rights. Certainly the fact that we do commit ourselves to picking up the reasonable costs as part of the expropriation is an important step forward.

Along with that, I was interested in the member's comments in introducing the bill, about the provision that an individual can accept payment by a taker without prejudice, and as a result of accepting that payment for what the taker thinks is a reasonable sum the individual home-owner, farmer or whatever the case may be, is then in a position to go out and get an independent appraisal and have the costs of that appraisal borne by the taker.

I think that's important and I think it's only fair, Mr. Speaker. Whether it's the Crown, a municipal authority, a pipeline company or what have you, it's the taker who wants the property. It seems to me that it's only reasonable that they should have to bear the costs of an independent appraisal so the individual landowner, or property owner, is in a position to satisfy himself or herself that the recommended amount is just and reasonable.

Now, Mr. Speaker, I just want to close by asking three or four questions. I would ask the hon. member in closing the debate perhaps to comment on them. They are from a letter dated April 4, from Mr. Dobson Lee, the President of Uniform, which was sent to various members of the Legislature. I notice just at the outset, Mr. Speaker, that some of the points Mr. Lee has made in his letter of October 4 have already been accommodated. The concern Uniform had, for example, about the chairman of the board necessarily being a lawyer, I notice has been changed in the act.

But the second point they make - and I think it's one which is dealt with in part, but which I'd like the mover to perhaps deal with a little more specifically when he concludes - deals with the question of smaller parcels of land. I just quote from the Unifarm letter here:

Unifarm takes the stand that the value of land taken in small parcels is worth more per acre than larger areas, and further that some compensation should be provided in lieu of compulsory taking.

Now it's my understanding that that provision, that extra amount for compulsory taking, is not going to be in this act. "A landowner subject to expropriation can hardly be classified as a willing seller." Well, that's self-evident. It goes on to say: "We believe future potential of property should be a consideration when land values are established." That's one point I'd like the member to comment on in closing the debate.

And then the final three points that Mr. Lee raises in his letter to the members:

4. We believe the Surface Rights Board should have authority to fix yearly compensation from metering, compressor or heating stations and for all surface structures, including utility installations.

5. We believe that annual awards should be granted for pipe and power line right-of-way, instead of a lump sum payment and that this should be administered by the Surface Rights Board.

6. That where a voluntary updating of contracts that are completely out of line with current economic values has not taken place, The Surface Rights Act be amended to require revision of contracts on a regular basis.

Mr. Speaker, I'm sure that the member who moved the bill tonight has already received a copy of that letter, but I think some of the points Mr. Lee raises are worthy of reply.

Just in general conclusion then, Mr. Speaker, I believe Bill No. 41 is certainly a step forward and merits the support of all members when considering the principle of it.

DR. HORNER:

Mr. Speaker, if I could just deal briefly with a portion of Bill No. 41 which has to do with the question of the Surface Rights Board and how they may proceed in the future, regarding representations made over the years by farmers and farm organizations.

I would like to add my congratulations to the hon. Member for Edmonton Strathcona for the great amount of work on a very complex problem in coming up with Bill No. 41.

We have a commitment to the agricultural community of this province that the Surface Rights Board, as such, would deal with certain matters which primarily affected farm land and the board would continue to be under the jurisdiction of the agricultural authorities in this province. That commitment stands.

Insofar as the two matters which in fact are not dealt with specifically in Bill No. 41, I would like to make a statement. The question of above-ground structures, the compensation that may be payable for the expropriation of those structures, the method in which it should be paid, and indeed the method by which the compensation for easements might be paid, in my view requires further examination by the people involved in the industry and by the farmers involved.

There is an argument, of course, that perhaps the farmer or the landowner should have the right to choose between an annual rental and/or a lump sum payment, indeed as other boards do. I can think of the Workers' Compensation Board and so on. In fact, the worker has an opportunity to take either a lump sum or indeed a monthly pension or whatever. With the economic conditions we are under in Canada, and indeed in the world, that may be of some value. Some farmers might indeed want a lump sum payment rather than an annual payment. It seems to me that could be worked out on an equitable basis at the time of the award. In other words there could be a formula which would convert a lump sum payment to an annual compensation having regard to all of the factors involved, the nuisance factors and all of those things which in fact the Surface Rights Board now takes into consideration in [making] a lump sum payment with regard to above ground structures.

The other matter which is of continuing concern has to do with the question of renewable leases. The question is whether or not they are ironbound contracts which cannot be touched without regard to what has happened in regard to our natural resources. It's my view that this needs to be looked at very closely in spite of the fact that we feel the breaking of a contract is a very serious problem indeed. On the other hand we had some success with some of the more progressive companies in their voluntary review some of the older awards in a forward way.

Unfortunately we haven't had complete success in the voluntary review. The question of whether or not we should have a renegotiation or that the landowner should be able to apply for a renegotiation of some of the longer leases in relation to review on a routine basis is, I think, the other important question which isn't dealt with in this bill and, in my view, more particularly applies in fact to the surface rights bill itself.

Our commitment, Mr. Speaker, would be that I would ask the chairman of the Surface Rights Board to hold specific hearings in relation to both these matters this summer with a recommendation to the government to bring in amendments to The Surface Rights Act this fall to implement what might be necessary in both, in regard to the question of the above-ground structures and how compensation is payable, and the question of whether or not there should be a choice on behalf of the landowner in relation to how he is paid, either a lump sum or an annual compensation.

The other question with regard to renewable leases is whether or not they shouldn't be open for renegotiation and then become part of the Surface Rights Board and the five-year renewal program. We would undertake to have those hearings this summer, have the interested parties make their representations to the Surface Rights Board and have a recommendation for the Legislature at the fall session.

MR. CLARK:

I would just like to ask a question of the Minister of Agriculture in light of his statement. When he talks about above-ground structures, does he include the power towers?

DR. HORNER:

Very specifically, Mr. Speaker, it is one of the major above-ground structures.

MR. CLARK:

Secondly, when you said there would be hearings, obviously those are public hearings. They would be advertised?

DR. HORNER:

Yes, Mr. Speaker.

MR. HENDERSON:

I would just like to very briefly offer one or two comments.

I must confess some amusement as the competition goes on on both sides of the House for credit for the legislation. I think anybody familiar with the problem realizes [there] has been a rather long and difficult gestation period in getting legislation of this nature before the House. I think that soon most members are going to vote for it. I think members on both sides can take credit for at least having the intelligence to recognize it as a new and progressive bill regardless of who got the first licks in. There is no question that the Alberta Institute of Law Research and Reform probably is the one that should really take the bows as far as the legislation is concerned, and let the matter go at that.

I would just like, secondly, Mr. Speaker, to support the Minister of Agriculture on his suggestion to have the Surface Rights Board hold hearings on possible amendments to The Surface Rights Act with a view to making the provisions of the Act relative to the five-year renewal clause which is applicable on all leases signed since January 1, 1972, in effect declaring all lease renewals since January 1, 1972 to be new leases as far as the terms of the Act are concerned. In other words, lease renewals would be treated as new leases since January 1, 1972 and be subject to the five-year renewal clause.

DR. HORNER:

A point of clearance. The hon. member is saying that from 1972 they are subject to review. Does the hon. member not mean those prior to 1972?

MR. HENDERSON:

Yes, Mr. Speaker, I was talking in terms of lease renewals. There are a lot of the original leases associated with mineral lease development oil wells which have 25-year leases. I think the minister and the board will find there are a significant number of them coming up for renewal this year, particularly in the older fields, Redwater, Leduc and Pembina. Some of the firms involved are simply sending out notices to landowners under the option clause we have in the lease where [we are] renewing the lease as to the old terms. In my mind they should be considered new leases under the legislation. It is the case of simply putting an amendment in the Act to that effect.

I think one other thing the board should also look at, Mr. Speaker, when it is holding the hearings, is the question of - in order to up-date all the legislation - whether there should be some deadline put in that all old leases which are more than X number of years old - maybe not five years but 15 or 20 years old - should be automatically declared up for renegotiation. The five-year clause might be the answer, but certainly there is no argument in my mind about making the 25-year original lease renewals subject to the provisions of the new Surface Rights Act.

Thank you, Mr. Speaker.

MR. D. MILLER:

Mr. Speaker, I'd like to ask a question of the hon. Minister of Agriculture too, with respect to surface rights as it affects power poles run diagonally through a quarter section of farm land, preventing or interfering with sprinkler irrigation. Do we have to wait till this fall for any action in this regard?

DR. HORNER:

Well, Mr. Speaker, we have run diagonal power poles all across this country for the last 30 years. I appreciate the problems in the irrigation areas with regard to pivot sprinklers, but the power poles have been there for some time. If the hon. member will look at Bill No. 41 he'll find there are some important new considerations with regard to the roots of these power lines, and indeed pipelines, which would place more authority in the hands of the two boards than they have had in the past with regard to designating where these structures should go. I would hope we can resolve the problem in the irrigation areas, with regard to both power lines and well sites which are so important if you're going to use modern irrigation equipment.

MR. DRAIN:

Very briefly, I certainly approve of Bill No. 41 and also join with the other members in congratulating the author of this rather massive document.

However, there's one particular area I might mention in passing that has not been touched by any of the speakers. That refers to when the Crown as such does own a lease. The Minister of Agriculture is very much aware that these particular leases, in many cases, are vital to the viability of an operation. Because of the demands on land in the future, there will be cases when priorities in land use will be directed to a greater degree in utilizing what is public land to the detriment of the present lessee. I would suggest there certainly should be some form of remuneration when an operation has these very detrimental effects because of this particular situation. If this is in the bill, I would certainly be pleased to hear about it.

DR. HORNER:

Section 69.

MR. ZANDER:

Mr. Speaker, I too want to congratulate the hon. Member for Edmonton Strathcona, the minister and the hon. Member for Wetaskiwin-Leduc for their comments. I can recall highway construction just west of the city where a store stood partially out on the right of way for many years because an agreement could not be reached. I think the former Minister of Highways will remember the meeting at that time, and I think I probably agreed with him then because of the seriousness of the situation. This thing remained there for many years because a settlement could not be made. I do believe that, where land is taken for the public good of all the people of the Province of Alberta, or Canada, the public should then be able to compensate the individual for whatever losses he has.

Mr. Speaker, I think probably we'll discuss this in the committee stage later. Sections 42, 54 and 55 give me a little bit of difficulty but I think this can probably be cleared up in a manner in the clause-by-clause study of the bill.

I would finally say that when the hon. Deputy Premier and Minister of Agriculture made the announcement that the board will hold those hearings across and through the province to find out public opinion, assess that public opinion, come back to the fall sitting of the Legislature and then if necessary pass legislation - that will do exactly what the hon. Member for Wetaskiwin-Leduc has suggested. Certainly in that area today with the leases up - I think in the Redwater field the 25 years are over - there is some confusion by the companies. They are coming in now and asking to renew them on the same basis as was done in 1947, 1948 and 1949. I'm certainly happy that that will be looked into.

MR. SPEAKER:

May the hon. member close the debate?

SOME HON. MEMBERS:

Agreed.

MR. KOZIAR:

Thank you, Mr. Speaker.

First of all, I would like to thank all the members who participated in the debate on second reading of Bill No. 41. I'm particularly pleased with the comments of the Deputy Premier. A number of submissions which I personally received in connection with Bill No. 89, as it then was, from farmers and farm organizations, were in connection with the problems they experienced, particularly with the above-ground structures.

Compensation was meted out in an era when a different method of farming was used. At that time the board, the court or whatever it was that decided the compensation, didn't look into the future, into new methods of farming and into how those above-ground structures might affect those new methods of farming. So the statement by the hon. Deputy Premier, that the Surface Rights Board will be looking into this matter over the summer, is a welcome one. I'm sure it will be welcomed by farmers in organizations throughout the province of Alberta.

A number of the members who participated in the debate brought forward excellent points of view about areas where certain actions by the government - in whatever form it is, be it the municipal government, the provincial government or some other type, a school board - have had detrimental effects on lands surrounding the concentric point of such action and where no expropriation is, in fact, involved. Some very interesting pleas were raised on that particular level to have those areas corrected in this bill.

Mr. Speaker, I must warn the hon. members that what we are attempting to do with this bill is provide a fair method of compensation where there is a forceful taking - a forceful taking - and not where there is some construction, lack of construction, road closing or what have you. We're trying to provide a fair compensation where a person's land or house is forcibly taken away from him.

We shouldn't look at Bill No. 41 as a panacea which will remedy all the ills and all the grievances which every citizen suffers at the hands of a particular level of government in this province. Otherwise we would be here until fall preparing a document which would probably take as much as one of those red books behind you, which encompasses all the legislation which we pass in one year. It would be impossible for us to consider all those areas. I myself am cognizant of a number of areas where people suffer.

At the same time others gained, as at least a couple of the hon. members [mentioned]. Others gained where people suffered. Perhaps the fair way would be, as the hon. Member for Drumheller pointed out, for those who gain to put their gain into a particular pot which will then be shared by those who lose. But I fear that we're not angels, we are only men, and it would be impossible for us to adequately assess those who gain and share amongst those who suffer.

For example, the question of the rapid transit system. There's no doubt that a particular government which decides the rapid transit line will go in a particular route, will benefit those who are closest to the route. If you see any major city, the highest development takes place along a rapid transit route, particularly where the stops are located. Of course the movement of density and of value to those areas takes away from the value of surrounding areas. These are things we live with. I would caution members against expecting in Bill No. 41 something that would correct all the ills of society which may exist.

The hon. Member for Calgary Millican brought in the provincial parks. I was a bit concerned by his use of the figure 4,900 acres as the amount that would be expropriated when, in fact, that amount includes the entire park, river, land and all. Most of that now is in a form which is owned by one level of government. Perhaps the hon. member misunderstood the explanations put forward in this House by the Minister of Lands and Forests and by the Minister of the Environment when the concept of the capital city park and the capital recreation area was discussed. But I would hope that from ...

MR. DIXON:

Mr. Speaker, in order to clarify the situation at the earliest possible time, I said 500 acres in total where there probably would be quite a number of expropriations. I hope I didn't give the hon. member the idea that all 4,900 acres are going to be expropriated.

MR. KOZIAK:

At least, Mr. Speaker, I have given the opportunity to the hon. member to clear the Hansard record, because I distinctly wrote 4,900 down and I was a little bit puzzled. I am glad he has corrected that misconception.

The other thing, Mr. Speaker, is that we have to remember in Bill No. 41 what we are doing is providing a system of expropriation and a law whereby principles of compensation are such that the home-owner suffers as little as possible.

The argument with respect to the provincial park went way over my head if there was any connection, because what we are doing with Bill No. 41 is in fact improving the lot of the person who is being expropriated, not in any way interfering with it but improving it. This, Mr. Speaker, is a bill that perhaps a government, or any expropriating authority, should be wary of - should quiver - but not a home-owner. If anything this bill is a law for the protection of the consumer, a law for the protection of the home-owner in this province.

With respect to the comments of the hon. Member for Drumheller, I too have full expectations that this board will acquire a high degree of efficiency and a high degree of knowledge in the area of expropriations equal to those expectations of the hon. Member for Drumheller.

I hoped I had dealt with the matter of injurious affection during the moving of second reading. Again, I must mention that what we are doing here is attempting to compensate for the forceful taking. I acknowledge that there are problems, as I had mentioned earlier, where rights of people are interfered with where there is no forceful taking, but we cannot make this bill a panacea.

The hon. Member for Pincher Creek-Crowsnest raised the point of the tenant under a lease. I might bring to his attention two sections that readily come to mind in Bill No. 41, Sections 69 and 49 which both deal with the question of compensation where the person who is hurt is in fact not an owner but a tenant under a lease.

I hope that with that I have covered some of the concerns raised by the hon. members, and I encourage all members to vote for second reading of this bill.

[The motion was carried. Bill No. 41 was read a second time.]

Bill No. 54 The Natural Gas Rebates Act (Cont.)

MR. LUDWIG:

Mr. Speaker, at the time I adjourned debate I believe I was giving the hon. minister a few facts on life on the division of spoils as to the sale of gas in 1964 and in 1974.

Now, I'd like to bring just one more point to the hon. minister's attention. If he feels, by some stroke of genius, foresight, ability on his part, or perhaps advice that was not available before, that he was able to project the costs of gas - that the benefits from the sale of gas to the people of this province would be such a great amount - I would like to challenge him to do the same thing with coal at the present time, to raise the utilities just at random, just find a good round figure and say that's the rate paid to us, and say, well, we'll just raise it by 25 or 100 or 200 per cent. Do it that way, and see what happens. See if he doesn't end up losing the little bit he is getting now.

I'm just trying to point out to him not to be too quick to sort of seize upon any little opportunity, whatever benefit that may be. The people can understand these things as they happen from day to day. If it's so easy that all that is required is a little bit of application of his know-how to double or treble the income we get from this source, let's not stop there. Let's do a good job and let's get to coal, that industry which is a very important resource of this province - perhaps someday it will turn out to be one of the most important in 25, 30, maybe 50 years - and find out how easy it is to raise revenue, raise royalties on a commodity, a mineral, that nobody wants to buy, and even if people do want to buy it, is competitive. But if it should happen in the next year or two, or four or five, that all of a sudden the demand for this commodity increases, of course any government would be obliged to move it and get its just share. But sometimes when you want to get all you can out of a resource and the market is not right, you find that you have to adjust to existing conditions, otherwise you'll get nothing. Not only will you get nothing but you will also lose some of the action, some of the sales, and thereby create a lot of unemployment.

These are just a few points which I know the minister, who is a very gracious kind of minister, will take under advisement and perhaps forget about popping around the province

making remarks, which are really not befitting those of an hon. minister of the Crown, that we did it because we knew better. The other government was unable to do it. It isn't a question of wisdom. It's a question of circumstances. I see that the hon. Deputy Premier is smiling, and I have great regard for him. But I don't know whether he is impressed with my remarks because Farran is getting it or whether he feels that maybe his turn comes next, Mr. Speaker.

[Interjections]

The hon. minister, Mr. Farran's, attitude in this regard is probably the same as the hon. Deputy Premier standing up and saying, well, we were able to get you \$5 a bushel for wheat. Look how smart I am. The other government wasn't able to do it.

[Interjections]

Well, that's fair ball, Mr. Speaker, if that's what he thinks. After all if he doesn't toot his own horn I don't expect anybody else will. But that's about the level of reasoning we get from some of these people. It's just amusing when they do this. They'll say, we got 20 per cent more for the farmer this year. The farmer couldn't buy a darn thing more with that 20 per cent more, because everything else cost him a lot more than 20 per cent. They are marking time, but the figures get bigger. The pride in one's achievement is also something that is very important to the hon. minister. But as for that, Mr. Speaker, I suppose we're not all that different.

Just a reminder to the hon. minister. Take credit for your achievements, but don't take credit for something that happened because a war was started in the Middle East. The hon. minister and I couldn't participate because the home guard is no longer welcome in these things. So let's just call it the way it is and keep this in the proper perspective. If there is any credit to be had for the extra revenues that were perhaps brought by problems created thousands of miles away from here, perhaps in due course the proper people will get the credit due to them.

Thank you, Mr. Speaker.

MR. DRAIN:

Mr. Speaker, [I have] a few brief remarks on this particular bill. In making them I do not propose to carry on any post-mortem as to why the price of gas yesterday was lower than it is today and why in the future it probably will be higher.

I remember, though, when I was working in the oil patch, and this was quite a while ago, a paper was brought out by a professor on the geology of the southern portion of the province where some of the major gas producers are located. This was done by a doctor of geology from the Geological Survey of Canada. He stressed the feasibility of gas potential in the Mill Creek fault. At that time I was dealing with some of the principals of an oil company and I said, there it is, a piece of cake, all written down. All you have to do is go there and drill and you'll get your gas. They said, we don't want it, because we can't sell it. We're looking for oil. If we can't find oil we don't want it.

And so the scene changes. Now everybody goes out and looks for gas.

I guess we could say that Alberta is the trend-setter, or possibly in this case the jet-setter because "jet" would be more appropriate when we're talking about gas. So we set a new trend. We have a diminishing resource and we have an extremely warm market. As a result of the law of the general market we take advantage of it on the time-honoured and natural principle that when a dog has a bone, he gnaws it himself and is not prepared to let the other dogs bite it.

However, there's one thing that comes to my mind, and this is in the area of philosophy and not directly in relation to this particular bill. The chickens always come home to roost. We're looking at an area now where natural resources are going to be in scarce supply and on an accelerating basis. I don't question that other provinces will get their innings, and I suppose we can then join in holding onto the crying towel.

I propose to support this bill, Mr. Speaker.

MR. NOTLEY:

Mr. Speaker, dealing with this bill, I would first of all like to say I agree with one of the more controversial provisions in it, and that is bringing municipal utilities under the provisions of the Public Utilities Board. I know that may not be the most popular thing to say in the city of Edmonton at the moment, but the fact of the matter is there is no possible way you can make a rebate system work unless you have all the utilities under the provisions of the board. So, notwithstanding the fact that some of my friends and former associates in Edmonton are not entirely enthused at this particular aspect of the

bill, I nevertheless agree that it has to take place. In that sense I support that part of the bill.

The hon. Leader of the Opposition when he spoke today, raised the point, and I think it's a valid point, Mr. Speaker, of whether or not propane will be dealt with. The minister has several times during the question period intimated that it might be. I think this is going to be important, Mr. Speaker, because in the case at least of one rural gas co-op in my area where they have advanced beyond the stage where they can make changes as far as grain dryers are concerned, they are just simply going to have to have some assistance or their grain drying costs compared to the co-op on the south side of the river are going to be substantially higher. I suspect it won't be too far down the road, Mr. Speaker, that the government does have to include propane.

I mentioned bringing municipal utilities under the Public Utilities Board. Perhaps I should just add that I think it's important that we flush out the administration of the Public Utilities Board, so that it is able to do much of the work the act permits it to do. The act gives it rather sweeping powers to do investigative work, to do monitoring work, to research profits and what have you. But the tendency has been to see the board move when you get into an adversary situation, that is, when a company applies for a rate increase, the Public Utilities Board moves, has hearings, we get groups that don't want the increase making their submissions, we get the companies making their submissions and finally the board hands down the award. In other words it has tended to act in a rather passive role. It does its job but it does its job once the whole process of attempting to increase the rates goes into play.

I suggest that under the terms of the Act which is already on the statute books, the board indeed has the statutory power to do much more than that. I would suggest that especially now with the broadened powers we are giving the board and in view indeed of the powers we are going to give the board as a result of this particular piece of legislation the ongoing monitoring process of the board will have to take on a new dimension and considerably more importance.

Now, Mr. Speaker, that leads me to the issue which now faces the government concerning the threshold of the subsidy for the City of Edmonton power plant. I think the comments made this afternoon by the hon. Leader of the Opposition are valid. Despite the report of the Energy Resources Conservation Board, which makes a pretty plausible case for converting to coal and the more efficient use of an energy source like natural gas, the fact of the matter is that the City of Edmonton proceeded to develop their power plants on the basis of the best advice available at that time, and they did so in good faith.

Therefore, Mr. Speaker, it seems to me that even the split rebate system which you were talking about - 31 cents or anything over that and then some unspecified amount between 18 cents and 31 cents - isn't really good enough considering the fact that the City of Edmonton had made that decision in good faith on the best advice available. We don't think it would destroy your program in any sense. It seems to me it would be completely consistent with the whole concept of the rebate proposition if the final agreement worked out between this government and the City of Edmonton is that the rebate would begin at the same level for the City of Edmonton as any other.

Now that, of course, doesn't apply to future power development. Future power development is something which the city or any other utility - Alberta Power for example when they consider possible expansion of their coal deposits in the Halkirk area - will be doing on the basis of pretty clear policy guidelines set up by the government as a result of information received from the Energy Resources Conservation Board. That's a new ball game. It's a different set of rules. But it seems to me that when we are talking about the application of this rebate system, we have to apply it on the basis of the rule book which the City of Edmonton had at its disposal when they in good faith made their judgment decisions about a power plant development.

The final point I'd make, Mr. Speaker, in dealing with this bill is to say that I think they are going to have some problems, and your Minister of Industry and Commerce is going to find it a little hot on occasion deciding which of the larger users of natural gas will get the rebate and which won't. I think the special circumstances are going to get you into continual hot water. But if that's your choice of action, you'll have to live with it.

I think it would probably be better if we had some sort of at least general criteria announced by the government as quickly as possible so people know on what general basis the rules will be for that particular area of this bill too.

In general, Mr. Speaker, the act is the only possible approach I can see at this stage to cushion natural gas prices in Alberta. Therefore the government had to come in with it. It is going to be a very expensive proposition; \$25 million this year, \$50 million next year, \$75 million I gather in the third year of the program and perhaps even more if natural gas prices continue to rise. In balance, however, I suppose the cost-benefit analysis would convince most of us that as long as we cushion the consumer prices, our

benefits as a province outweigh the costs of the rebate plan. It is something we are going to have to continually monitor. Nevertheless, it is the only feasible approach at this stage, Mr. Speaker, and I support it in principle.

MR. HENDERSON:

I just want to offer one or two brief comments. First, I would add my voice to supporting the proposition that the municipal utilities should come under the provisions of the legislation. I would like to suggest to the House, Mr. Speaker, that the suggestion put forward by the Member for Spirit River-Fairview, that the City of Edmonton went into the utilization of gas for its new power plant was based on the advice of the government of the day, bears further scrutiny. I am not prepared to say exactly what it was but it is certainly my recollection that the City of Edmonton was advised not to use natural gas in the plant.

The Calgary Power people had already crossed the bridge at Wabamun when they built the original generating set-up with natural gas. The projections they had, indicated coal was going to be much cheaper in the future than gas and gas was bound to escalate. It also is my recollection that the City of Edmonton entertained the possibility of building a plant at Ardley, on the Ardley coal deposits, using the Genesee coal deposits. Notwithstanding those considerations, they chose instead to build the plant adjacent to the city of Edmonton and opted for, I presume, the obvious advantages of transportation, to use natural gas.

I well remember the many occasions when the Minister of Mines and Minerals for many years in the province, Mr. Russ Patrick, stated that it was not in the best long-term interests for the people of the province of Alberta to have generating plants within the province using natural gas as a source of energy. I therefore suggest, Mr. Speaker, that any special concessions granted to Edmonton, if they are to be based on the hypothesis presented by the member for Spirit River-Fairview, bear some very close scrutiny. I think if one really examined the record, any correspondence or communication between the province and the City of Edmonton at that time, they would be very surprised to find that the provincial government endorsed utilization of gas as a source of energy for generating electricity as opposed to coal. All of the projections that have existed for many years demonstrate very clearly that gas was going to escalate much more rapidly than coal. Coal was the obvious choice, plus the fact that gas has the advantage of being more readily able to export than coal.

I think I can expand the argument. Even the Saskatchewan Power Corporation in Regina 15 years ago concluded in their strip mining operations in the Estevan area, in The Greenfield field, that they would practically have to have the gas given to them for nothing by the gas producers in order to generate power as cheaply as they could with the strip coal in that particular part of Saskatchewan. I suggest the City of Edmonton doesn't deserve any more consideration than now is contained in the bill, unless some stronger evidence can be presented to the House and to the government to substantiate some sort of firm commitment on the part of the province.

MR. DICKIE:

Mr. Speaker, I welcome the opportunity to make an observation or two in this debate. First, I would like to congratulate the minister on his unique, well thought out and followed plan. Having worked on the initial stages, I think congratulations are also due to those in the natural gas rebate study group who worked on it. Listening to the comments from the hon. members of the Opposition today, I couldn't help but recall that one of the things that perhaps has escaped them is the number of ways, and alternative ways, of carrying out this unique idea of sheltering the residential consumers in Alberta. It may have been expressed in the Legislature before, it may have been expressed by other members, but when one enters the field of natural gas with a multitude of natural gas contracts, their complications, utility companies and the philosophy of a free enterprise concept, and tries to work all those problems out and develop a plan as unique as the hon. member has presented to the House today with such very few comments of criticism, I think that is truly worthy of a great deal of praise in this Legislature. Certainly I think the minister himself, who was able to polish the plan and present it the way he did, deserves a great deal of credit.

I think, as I listened to the hon. Member for Calgary Mountain View and the hon. Leader of the Opposition, they were concerned about trying to emphasize where the credit lies. I just don't think there would be any doubt about it. I think they try to downplay that. I can appreciate why they're sensitive.

Mr. Speaker, I'll say to all members of the Legislature that one of the things this government will long be remembered [for] are the steps it took to increase the price of natural gas in this province. We have reviewed them before but I would like to highlight them for all the hon. members.

First, when we did take office it became quite evident from the start that natural gas was leaving this province under price. The first question is, how do you go about convincing the rest of Canada, other people in Canada, about that? We were faced with the unique problem the hon. member wants to forget, and that's the long-term contracts. As a free enterprise government we're very cognizant of this fact. This is where the real challenge arose, the long-term contracts. Many of these contracts had price redeterminations every five years. So this was the first step.

Of course the hon. members will recall the report by the Energy Resources Conservation Board which convinced all of Canada that natural gas in the province was under-priced. Having determined that step, the hon. members will recall that this government, as part of its natural gas policy, stated that we wanted to emphasize that one of the areas of concern we had was price redetermination every two years. I think hon. members will appreciate the significance of that point, because there's quite a difference in the two years and five years to have the price looked at again and reviewed. These are some of the bold, imaginative programs that were developed in the natural gas policies.

I think one that I really have to emphasize, of course, is the amendments to The Arbitration Act which used commodity values as the basis for these price redeterminations. Those weren't things that one just develops on a minute's notice or develops as part of a program that took a great deal of work, effort and discussions before these events could be realized and put into practice and the results received.

Of course we just announced recently the results of the TransCanada Gulf arbitration which were certainly beyond the imagination of most of the members of this Legislature a year or two years ago when we [were] standing up and saying the price of natural gas in this province and leaving this province as of November 1 would be some 60 cents per MCF.

I think it's because of the ability to come up with ideas of how we could get the price of natural gas up and, correspondingly, we were then justified in increasing the natural gas royalties, that we could offer to the people of Alberta a unique plan that the hon. minister has presented to the hon. members.

Mr. Speaker, I don't think we should forget that, and I think if the members of the Opposition are really looking at it - and I can recall being a member of the Opposition and saying if the government had done something we'd pat them on the back - there's no question in my mind that this is one plan all hon. members can stand up and give credit to the government for, and stand up throughout the whole province. I remember fulfilling my duty as a member of the Opposition because this ...

MR. HENDERSON:

I wonder if I might ask the hon. minister a question?

SOME HON. MEMBERS:

Agreed.

MR. DICKIE:

He always likes to have the last word and I think this time, perhaps after my comments are finished, I'd be glad to entertain a question.

Mr. Speaker, I can understand again why the hon. members are a little sensitive in not wanting to recognize their duties as members of Her Majesty's Loyal Opposition. I think it's quite clear what their duties are, and here's a unique chance for them to come forth and say, yes, the government did a great job and we congratulate them instead of trying to minimize who has credit for this. We certainly welcome some of the constructive criticism that has been voiced in appreciation of some of the unique problems we have in respect to coal, and particularly the City of Edmonton. Here again, I think that no matter where the hon. members of the Opposition are throughout the province, this is a step for which they can say, certainly we're behind the government 100 per cent on this plan.

MR. STROM:

Mr. Speaker, I decided to get into the debate before the hon. Minister of Mines and Minerals spoke, but even if I hadn't, I certainly would have gotten into the debate after he spoke.

May I say that I'm very happy to see the bill brought in by the Minister of Telephones and Utilities. I think it's a timely bill and is in keeping with a feeling on both sides of the House. Mr. Speaker, may I also say that as far as I'm concerned I'm not a bit sensitive as to who gets credit for it. My concern is that the bill will be brought in and that the rebate will be made available to Alberta consumers.

I am a little concerned, however, when I note my good friend, the hon. Minister of Mines and Minerals, has such excellent 20/20 hindsight. As I've said in this House on a number of occasions, I do not object to anyone criticizing a decision made by a previous administration as long as they use the information that was available at that time to make the criticism and not the information that is available today in the light of present conditions.

You know, it's all well and good for the hon. Minister of Mines and Minerals to get to his feet and suggest what a terrible mistake we made ...

AN HON. MEMBER:

Agreed.

MR. STROM:

... when we made long-term contracts for gas royalty. But I would like to ask them, even in the light of information we have today, had they not been made I wonder what the rate of development would have been within the province? I suggested if they would look at it fairly and squarely, Mr. Speaker, they would recognize it was essential and one of the keys that led to the development we enjoyed for so many years in the province. Of course, I note too that the administration, in their past performance, made one deal in one year and almost less than a year later found that it was outdated and had to be changed. I say that if they're going to start criticizing on that basis, then of course we can go on forever.

I would like to turn for a moment to the Minister of Telephones and Utilities. I always enjoy him because he is one of those hon. members who can rise to his feet and, in very, very glowing terms, describe the tremendous effort and the tremendous work that has been carried out by the Progressive Conservative party since they took office.

One of the things that always amazes me is why he chose to come to Alberta. Why didn't he go to good old Tory Ontario?

SOME HON. MEMBERS:

Hear, hear.

MR. STROM:

If they were so good, I'm sure they would have been the ideal party to have supported, at that point in time, and the ideal province to have gone to. But he seemed to, for some reason or other, have decided that Alberta was a pretty good place to come to and we're very glad to welcome him and glad that he has enjoyed his stay here. We're even prepared to say that he may make a contribution if he starts looking forward a little more instead of looking back as much as he is doing.

If he were to use his logic, I believe he is arguing that ...

AN HON. MEMBER:

We'd be in trouble.

MR. STROM:

Well, my hon. colleague says that we would be in trouble if he used his logic. Anyway, I'm going to use it just for a moment to bring out a point.

He suggests that the cool and collected approach by our Premier in his dealing with Ottawa was able to get us \$6.50 for our oil. I would remind him that prior to this administration taking office we were, in fact, getting more for our oil west of the Ottawa Valley than they were paying for world oil east of the Ottawa Valley ...

AN HON. MEMBER:

That's debatable.

MR. STROM:

... and if we were to use that same line of reasoning that ratio should continue, then we should be getting a lot more than the \$6.50. Mr. Speaker, I'm going to be a little more charitable and say this: I do not think you can use the same arguments for establishing what should have been done some years past. Today we're in a totally different situation and the hon. minister, I am sure, knows it.

I want to point out to him that as far as the negotiation we carried out, as far as any deals we came up with, I think they can stand the light of day and any debate that anyone cares to enter into and we would wind up saying that it was a reasonable deal for Albertans.

Now, there is a matter that does concern me a little bit. It relates to the matter of the gas rebate plan. I think I noticed somewhere that the hon. minister has suggested the moneys that will be available under The Gas Rebate Act can be used to offset the extra money that rural gas installation will cost. I suggest if that is what the minister is saying, then he is in fact using the gas rebate argument in a wrong way. It is money that is coming to a consumer and should have no bearing whatsoever as to the cost of rural gas installation. I would hope that when the minister closes the debate he will assure us he is not suggesting to rural gas co-ops that they should be using their rebate to offset the additional costs, over and above what the government anticipated, to pay for that extra cost.

Now, Mr. Speaker, I want to say again that as far as I am concerned I think Bill No. 54 is in keeping with a feeling that both sides of the House have had. I am very happy to see that it is before us. I am going to support it.

MR. DIXON:

Mr. Speaker, just one or two words on Bill No. 54 and the rebate plan. I don't believe that we'll have too much criticism from Alberta people regarding the rebate. Naturally, it's a good thing for us here in Alberta. I would be the first one to say so.

However, before I make a few remarks on the bill I would like to answer the hon. Minister for Mines and Minerals, because when he stood up tonight I was agreeing with him, until he said something about when he was a Conservative, I think. Well, I thought he was going to talk about when he was a Liberal.

AN HON. MEMBER:

I said, when I was in the government.

MR. DIXON:

Oh, was that it, Mr. Speaker.

AN HON. MEMBER:

Opposition.

MR. DIXON:

I believe the term was when he was in the Opposition. Well, he was in the Opposition as a Liberal and he was in the Opposition for a short time as a Conservative.

Anyway, my point is this, Mr. Speaker. I have said in this House before, and I will repeat it again, that the Conservatives as a party have the worst record in Canada as far as the oil industry is concerned and the development of the same.

Now I am not going to go into any details but I think all we need to do ...

[Interjections]

... I can do it, hon. members, if you wish, but I am going to refer you to ...

[Interjections]

... Well, Mr. Speaker, I think the hon. members are anxious for me to tell them a little bit about their record. I shall be pleased to do so.

Number one, the hon. Minister, when he mentioned TransCanada PipeLines. Well, as true as I am standing here, Mr. Speaker, if the Conservatives had had their way both federally and provincially, there would be no TransCanada PipeLine today.

I am sure the hon. Deputy Premier and Minister of Agriculture would be the first one to agree with me because a year or two after this dastardly thing happened he was elected as a member. I'm sure he heard plenty about it.

We had cabinet ministers in the Conservative government say, keep the gas in the ground and forget about western Canada. That was their answer. It's right in Hansard.

When the hon. Member for Calgary West at that time, the hon. Mr. Carl Nickle whom most of us know, tried to get up and point out why Alberta needed a better price for gas and

why it needed a market, who were the people who were shouting him down? Not the Liberals, not the NDP, not the Social Crediters, but his own party members.

So I'm saying again, Mr. Speaker, for a Conservative to get up in this House and tell us that they have made such a wonderful deal for people here in Alberta and - as was so ably pointed out by the hon. Member for Cypress - if this government had been able to get the same deal with Ottawa that we got for oil which was sold west of the Ottawa Valley, we'd be getting double the \$6.50 price that we're getting today. Those are the kinds of negotiations that the government could brag about if it had been able to do such a wonderful job.

Then you talk about the price of gas. Well, anybody in his right mind knows, Mr. Speaker, that the gas price throughout the world has increased substantially along with everything else. So when somebody gets up in the House and argues that you gave it away - I forget the term that the hon. Minister for Telephones and Utilities was talking about and I just can't place it here - oh yes, here it is, Mr. Speaker. It says, oh how wonderful it is now that we're getting a better price for our gas. I'm telling you it's unbelievable, Mr. Speaker, that the hon. minister could stand up and say that, comparing it with what's gone before.

I think we have to look at the future and this is what I'm interested in. But I am sure that the hon. members opposite are going to hope, and I hope they are successful, they can overcome the fact that the Conservative party has the worst record in Canada, the worst record in Canada.

MR. KING:

Would the hon. member ... [Inaudible] ...

MR. DIXON:

I certainly would.

MR. KING:

When you say that the Conservative party, both federally and provincially, has the worst record in Canada, do you include ...

MR. SPEAKER:

Would the hon. member please address the Chair.

MR. KING:

... does the hon. member include the establishment, Mr. Speaker, in 1961 of the national energy policy to which the hon. Member for Cypress so glowingly referred just a moment ago, and was that done by the Hon. John Diefenbaker?

MR. DIXON:

Well, there is a very simple answer to that, Mr. Speaker. The reason they had to have a National Energy Board is because the Liberals and the other parties made sure there was transportation for gas.

Now the hon. member has asked a question, now he's got all his trained seals over there trying to laugh the thing up. If they listen to what I'm trying to tell the hon. member, the reason we needed a National Energy Board is the fact that the TransCanada Pipeline was built. All the fighting of the Conservatives was ridden over by the people of Canada who had the common sense to realize that we needed all of Canada and we needed the resources of western Canada to build a better Canada and to supply the energy needs they were using and they were bragging about so much on the opposite side.

So my answer directly to you, hon. member, is that there wouldn't have been any need for the National Energy Board if the Conservative party had had its way back in 1957. I think they would like to blacken out the record they had at that time.

Then I hear the Premier of this province going along and saying, well, I'm going to support the federal policies. Mr. Stanfield, Mr. Speaker, says, well, I'm morally obligated to put in what the present Liberal government is doing. So I don't know what policy they have. I haven't seen any policy. They have only been able to take advantage of the road that somebody else has built for them, whether it be in the field of energy or anything else.

The hon. members opposite, Mr. Speaker, if they want to be truthful at all, will realize, I'm sure, that they were left a very good industry here to build from. I wish them every success.

I'm pleased now that the hon. Premier is in the House, because the hon. Premier claims he is going to support the Conservative members federally. I hope that he can get in touch with Mr. Stanfield and will be able to sell Mr. Stanfield on the fact that Alberta does need support of the federal party of Conservatives.

I hope that the hon. Premier has been able to sell them on a decent policy, which they've never had.

[Interjections]

Well, Mr. Speaker, I'm touching on Bill No. 54.

I can understand, Mr. Speaker, why the hon. members would like me to change the subject. They don't like to hear about the poor record they have as a party.

[Interjections]

Somebody said, what record? Yes, I am beginning to wonder what record.

MR. KOZIAK:

You've broken one.

MR. DIXON:

It is fine under Bill No. 54 to give a rebate. But I think the greatest task facing this government [is that] it must establish the order of priority for natural gas.

Most people still regard natural gas as just an ordinary fuel. But I think its greatest use is going to be in the building of industry. I think the government, Mr. Speaker, has to place a priority on what industries they actually favour [for] the use of natural gas.

The use of natural gas for fertilizer and other petrochemicals will have an important influence on the location of such plants in North America. We already have before us a dozen or more - as I'm sure the hon. Minister of Telephones and Utilities will point out, or the hon. Minister of Industry and Commerce - people now vying to build plants in Canada.

Do we realize though, hon. members, that if we look at it in the North American field, if the federal government in the United States decides that 5 per cent of their natural gas production will be used in the building of fertilizer and petrochemical plants our whole situation could change? Maybe half of the people who are trying to build here in Alberta would move south of the border. This could happen, because I'm talking about priorities.

If the federal government of the United States decides that agriculture, which is a major industry, needs the support of the fertilizer plants rather than the use of natural gas fuel for the heating of homes, then a lot of the plants we are talking about in Alberta could end up in the United States.

That is why I am saying, Mr. Speaker, that this government is going to have to give serious consideration to its priorities on the use of gas as well as the price. The price is the thing that we have been interested in mostly in Bill No. 54.

Mr. Speaker, we have heard a lot from the hon. Minister of Mines and Minerals tonight about the two-year renegotiation clause. That could be our downfall in the future, believe it or not. There are plants that may not be interested in starting unless they are guaranteed a supply that won't be interfered with every two years. I believe that will become a fact. I am sure that when the hon. minister is negotiating for these large plants along with the other ministers, that will be one of the concerns these companies will have. What are we going to do? Are we going to be open to negotiations that may be detrimental to our particular industry every two years? We may have to make exceptions.

If the government has decided in its wisdom that the priority is for plants rather than for fuel for homes, well, this may have to be changed.

Mr. Speaker, my main concern in Bill No. 54 is that as well as price we must consider the priorities we are going to put our natural gas to in the future years in this province of Alberta.

MR. SPEAKER:

May the hon. minister close the debate?

SOME HON. MEMBERS:

Agreed.

MR. FARRAN:

Mr. Speaker, the hour is late and I'll just take a very few minutes to sum up and perhaps save a little time in committee.

Mr. Speaker, it's obviously my happy lot to introduce only popular bills. The members of the Opposition seem to be tumbling over themselves to try to claim credit for it. This in itself is some acrobatic trick worthy of the Moscow Circus.

A first point was in reference to the rebate plan extension to propane. It's my understanding that the bill does provide powers to deal with a possible propane rebate under a separate part of the regulations to the act.

In the first instance, the price and the reasonability of the price for propane must be established by The Public Utilities Board above the wholesale and the retail level, otherwise you haven't got the firm bench marks on which to build a plant. Unlike the regulated gas utilities we cannot yet be sure that the prices reflect to just return above cost and, in the light of the market, of fair market value. Only when this has been determined can a rebate plan be considered.

The propane problem is different, Mr. Speaker, from that of natural gas in that the distribution is disbursed through a large number of dealers and is not in the hands of a very small number of franchised monopoly utilities as is the case with gas. Nor is it possible for the determination of the price to be easily done on a basis of capital investment and rate return and a rate base and so on.

So it's probable that if a propane rebate plan is considered necessary or desirable at a later date it would have to be to the producers. A separate tracking plan would have to be determined to make sure the benefit is passed on to the consumers through the 400-odd propane dealers.

The degree of regulation by the Public Utilities Board is not envisaged to be the whole way as is possible with monopoly franchise utilities, but just the determination of what is just and reasonable.

As for heating oil, although the powers to implement a rebate plan for this fuel are contained in the act for use if necessary, I think members should remember that it is already in check, because the five cent distribution allowance for farm fuels applies to heating oil. The provision is there in case the need appears in the future.

The hon. Leader of the Opposition said that only the bad bones were in the bill and the massive details were in the regulations. Well, this is right and he is correct when he points to the frequent clarifications necessary for The Rural Gas Act which was also a complicated act. This is the very reason the bulk of the detail has to be in the regulations in this plan.

That is why also, without suggesting any precedent to the House, we have made an exception and have decided to introduce draft regulations with the building committee. The regulations will be there to give a guide to members to understand the complicated nature of the act. They are not, of course, there for ratification, although suggestions would be welcome when we get into committee. I merely thought it was too much to expect members, particularly some of the members on the other side, to debate with meaning if they didn't have some idea of what the regulations might be.

There was some suggestion that Edmonton Power would suffer a penalty if it didn't receive total shelter from the increased market price of gas. Well, this is far from the truth. The suggestion is that it would be treated very unfairly if it were to receive shelter only above the competitive level of coal of 31 cents per MCF. I have said we expect to do better than that which is likely being more than fair.

I have here the comparative rates which demonstrate the benefit Edmontonians already derive from using natural gas as compared with coal for providing their electricity as is done in the rest of the province for base load.

Even in Calgary where they have a record of being no slouches when it comes to marking up the wholesale price from Calgary Power, they are reputed to have at least a 25 per cent retail markup.

The prices are these: an average home using 700 kilowatt-hours a month in Calgary pays \$10.85 or \$1.55 per kilowatt-hour, and an equivalent home in Edmonton pays \$10.10 or equivalent to \$1.44 per kilowatt-hour. There is a difference there of 11 cents a kilowatt-hour to Edmonton's advantage. A slightly larger home using 800 kilowatt-hours a

month: \$12.15 a month in Calgary and \$11.20 a month in Edmonton. There is a difference of 12 cents per kilowatt-hour in Edmonton.

This is despite the fact that Calgary is alleged to be marking up the wholesale price in Calgary Power by at least 25 per cent. So you can see there is a margin there for rates being increased in Edmonton without a suggestion of a penalty or any disadvantage just to get parity with the rest of the province.

First of all you must remember that Edmontonians, like other Albertans, are going to be treated equally for gas used for heating. If Edmontonians not only had the lowest gas heating prices in Canada, but also had the lowest electricity rates in Alberta, by virtue of government rebate for the natural gas they use to generate it, they would receive a double benefit as compared with the rest of the province. To some degree you can gather that from what I have said they are going to be getting something of a double benefit, because we have admitted there will be some recognition that they couldn't help their commitment to gas-fired power and will get some degree of rebate below the level of competitiveness with coal.

There was no penalty involved either, because Edmonton Power, as the hon. Member for Wetaskiwin-Leduc mentioned, went into the gas-fired operation completely with their eyes open. Montreal Engineering Company gave them a report last year which recommended that if gas is available at approximately a price of 43.4 cents per MCF in 1979, and escalating by 5.5 per cent thereafter, their gas-fired generating units should be installed in the periods of 1978 to 1984, which includes the last two extensions of the Clover Bar plant, Units 3 and 4. They have gone for gas with their eyes fully open expecting a price of 43 cents per MCF. This plan proposes total shelter above 31 cents per MCF.

The door is certainly still open for negotiation. It is contained in the regulations and not in the act. So it is still subject to negotiation. No penalty is envisaged. How can a rebate contain a penalty? That must be nonsense. This bill only contains bonuses, no penalties.

As far as hindsight is concerned, and several members of the Opposition talked about 20/20 hindsight, well, I don't know why they looked at it cock-eyed years ago. As the hon. Member for St. Paul would say, hindsight, hindsight, what about foresight?

MR. LUDWIG:

What about insight?

MR. FARRAN:

Sorry, I must be correct for the sake of Hansard. Somebody handed me a note. I said I was talking about dollars per kilowatt-hours and I meant cents per kilowatt-hour. When I talked about \$1.55, I meant 1.55 cents.

Well the hon. Member for Calgary Mountain View is so humble that he didn't want to claim credit himself for The Expropriation Act. He praised the hon. Member for Edmonton Strathcona in his usual masterly manner of understatement for bringing in the home for a home concept. Then he got one of his buddies to claim that it was a double victory for him. I think he is an extremely modest member. He has got lots to be modest about.

I agree with the point made by the hon. Member for Spirit River-Fairview, that the Public Utilities Board must be beefed up and requires more personnel, more back-up staff, so it can get into this area of monitoring, tracking through inflationary costs, judging what is fair and reasonable, responding to complaints, in addition to their normal role of sitting as a court at a rate hearing. We are indeed throwing a tremendous load on the Public Utilities Board in this particular bill.

The last point. There was mention of the effect on rural gas co-operatives by the hon. Member for Cypress who said I had claimed that some of the benefits of this natural gas rebate plan would work to the advantage of gas co-ops. Well, this is true, and I reiterate what I've said and I'll say it again.

At the moment Gas Alberta is selling wholesale at 32 cents per MCF. This is based on an average purchase price from TransCanada Pipelines of between 21 and 24 cents per MCF. This particular plan visualizes a wellhead price of 16.7 cents per MCF. So I believe that the wholesale price through Gas Alberta to the co-ops will be a couple of cents lower than was first envisaged before this plan came in. With that saving of 2 cents below the figure on which all the viability studies were done, it will enable them to pick up some of the extra costs due to inflation in their capital plan. So I did say it and I say it again.

Thank you very much, Mr. Speaker.

[The motion was carried. Bill No. 54 was read a second time.]

MR. HYNDMAN:

Mr. Speaker, before moving adjournment, as to government business tomorrow evening we would see moving to Committee of the Whole for study of bills. There are a number of bills presently in committee as found on pages 2 and 3, and we would study those tomorrow night, including Bill No. 55.

I move the Assembly do now adjourn until tomorrow afternoon at ...

MR. HENDERSON:

Mr. Speaker, before the motion is put, if I may just raise a question.

I'm wondering if the Government House Leader has had any discussions with the Leader of the Opposition with the view to foregoing private members [day] tomorrow afternoon in view of dealing with government business instead?

MR. CLARK:

No, Mr. Speaker. We haven't and we wouldn't be willing.

MR. HYNDMAN:

I'll move, Mr. Speaker, that the Assembly do now adjourn until tomorrow afternoon at 2:30 o'clock.

MR. SPEAKER:

Having heard the motion for adjournment by the hon. Government House Leader, do you all agree?

HON. MEMBERS:

Agreed.

MR. SPEAKER:

The House stands adjourned until tomorrow afternoon at 2:30 o'clock.

[The House rose at 10:47 o'clock.]

