

LEGISLATIVE ASSEMBLY OF ALBERTA

Title: **Friday, May 6, 1977 10:00 a.m.**

[The House met at 10 a.m.]

PRAYERS

[Mr. Speaker in the Chair]

head: PRESENTING PETITIONS

MR. NOTLEY: Mr. Speaker, I have two petitions today. The first is from the members of the focus planning committee, United Church of Canada, Alberta Conference, wishing to go on record as opposing Bill 29.

The second, Mr. Speaker, is from the undersigned staff and students of the CORE program in the M. E. LaZerte Composite High School, also calling upon the government to withdraw Bill 29.

MR. CLARK: Mr. Speaker, I would like to present to the Assembly a petition of 115 students from the D. S. MacKenzie school, petitioning the government to withdraw Bill 29.

head: INTRODUCTION OF BILLS

Bill 241
An Act to Amend
The Alberta Heritage Savings
Trust Fund Act

MR. CLARK: Mr. Speaker, I beg leave to introduce Bill No. 241, An Act to Amend The Alberta Heritage Savings Trust Fund Act.

This bill would do four things, Mr. Speaker: it would bring the expenditures and investments of the Alberta heritage savings trust fund under the approval of the Legislature; it has a provision that would make the chairman of the Standing Committee on The Alberta Heritage Savings Trust Fund Act a member of the opposition; it would guarantee that the meetings of the committee would be open to the public; and it would repatriate the Alberta heritage savings trust fund to the Legislature.

[Leave granted; Bill 241 read a first time]

Bill 52
The Natural Gas Pricing
Agreement Amendment Act, 1977

MR. GETTY: Mr. Speaker, I beg leave to introduce Bill No. 52, The Natural Gas Pricing Agreement Amendment Act, 1977. This being a money bill, His Honour the Honourable the Lieutenant-Governor, having been informed of the contents of this bill, recommends the same to the Assembly.

Mr. Speaker, the main features of the bill are: first, to transfer certain responsibilities for administration of natural gas pricing from the Minister of Energy and

Natural Resources to the Alberta Petroleum Marketing Commission; and second, in certain cases where there are several purchasers of natural gas, to make sure that the export flowback or price adjustment from the sale of gas outside Canada gets back to the producer. There have been certain cases where it has been difficult to do this, although this is the intent of the previous bill. These amendments will make certain we are able to do that.

[Leave granted; Bill 52 read a first time]

Bill 49
The Election Amendment Act, 1977

MR. PURDY: Mr. Speaker, I beg leave to introduce Bill 49, The Election Amendment Act. This bill has three very important amendments. The first will establish the office of the Chief Electoral Officer who will be responsible for Bill 24, The Election Finances and Contributions Disclosure Act, and The Election Act. The Chief Electoral Officer will be established by a select committee of this Legislature. This committee will have the power to appoint this person.

The second amendment will allow incapacitated voters a mail ballot, upon application to the Deputy Returning Officer in the constituency. This procedure is outlined under a new Schedule 7 of the act.

Another important amendment is regarding the new procedure for establishing a semipermanent voters' list. A general enumeration will be held in the second calendar year following the last election. This will take place in the month of September. The month of October will be the quarter revision, and if an election is not held within another year . . .

MR. SPEAKER: Order please. With great respect, the hon. member is going into considerable detail which could better be provided in the debate on second reading.

[Leave granted; Bill 49 read a first time]

MR. FOSTER: Mr. Speaker, I move that Bill 49, The Election Amendment Act, 1977, be placed on the Order Paper under Government Bills and Orders.

[Motion carried]

Bill Pr. 2
An Act to Amend
The Alberta Wheat Pool Act, 1970

MR. DOAN: Mr. Speaker, I beg leave to introduce Bill Pr. 2, An Act to Amend The Alberta Wheat Pool Act, 1970. This act changes several sections in the present Alberta Wheat Pool Act.

The first few sections are just to change the qualifications for membership to metric terms. The most important change in this act, though, is in Section 31, the change in the capitalization and reserves of the Alberta Wheat Pool. It is suggested that a three-fifths majority of the delegates be entitled to vote on this resolution and would have the authority to increase the upper limit should the necessity appear.

[Leave granted; Bill Pr. 2 read a first time]

Bill Pr. 3
An Act to Amend
An Act Respecting the Holding
of Real Property by the
Alberta Command and Branches
of the Canadian Legion of the
British Empire Service League, 1957

DR. McCRIMMON: Mr. Speaker, I beg leave to introduce a private bill, Bill Pr. 3, An Act to Amend An Act Respecting the Holding of Real Property by the Alberta Command and Branches of the Canadian Legion of the British Empire Service League, 1957. The purpose of this bill is to bring provincial legislation in line with legislation that has been passed by the federal government.

[Leave granted; Bill Pr. 3 read a first time]

head: **TABLING RETURNS AND REPORTS**

MR. MOORE: Mr. Speaker, I would like to table the answer to Motion for a Return No. 133. In addition, I would like to table copies of a pamphlet entitled, Surface Rights in Alberta, prepared by the Alberta Department of Agriculture for the use of landowners. Copies will also be made available to all members.

DR. HOHOL: Mr. Speaker, I would like to table the second annual report of the Alberta Commission on Admissions and Transfers. Copies for all members will be available in the office of the Clerk of the Assembly.

MR. JOHNSTON: Mr. Speaker, I request to file with the Legislature Library copies of municipal statistics for December 31, 1975.

head: **INTRODUCTION OF SPECIAL GUESTS**

MR. NOTLEY: Mr. Speaker, I rise to introduce to you, and through you to the members of the Legislature, five grade 11 students from St. Thomas More separate high school in Fairview, Alberta. They are accompanied by their teacher Mr. Dean Rook. They are seated in the members gallery so they can help the opposition keep an eye on the government. I would ask them to stand and be recognized by the members of the House.

MR. JAMISON: Mr. Speaker, it is my privilege this morning to introduce to you, and through you to the members of the Assembly, 60 grades 5 and 6 students from Camilla school in Riviere Qui Barre in the St. Albert constituency. They are accompanied by their teachers Miss Clark and Mr. Unger.

I would like to say this is the first rural school in Alberta that has an arena attached to it, and they are making really good use of it. A championship volleyball team came out of Riviere Qui Barre, the first rural team that has knocked out the city of Edmonton. They now have a sign on the highway that says it is 10 miles from Highway 2 to Riviere Qui Barre. I would ask that they stand and be recognized by this Assembly.

MR. CLARK: Do they read the St. Albert *Gazette*?

MR. ASHTON: Mr. Speaker, it's my privilege to introduce a group of students from Glen Allan Elementary School in Sherwood Park. Having spent an hour in their class, I can say these students are outstanding. With the gold T-shirts, they are also outstanding in the gallery. I would ask them to rise and be recognized by the Assembly.

DR. WALKER: Mr. Speaker, it's a pleasure for me to introduce on your behalf, as MLA for Edmonton Meadowlark, 30 very fine young people from the grade 10 class of Jasper Place Composite High School. They are accompanied by their teacher Mr. Myhre. I would ask that this House give the customary welcome.

head: **ORAL QUESTION PERIOD**

Air Line Acquisition Discussions

MR. CLARK: Mr. Speaker, I expected a ministerial announcement from the Provincial Treasurer, so I direct my first question to the Provincial Treasurer and ask if the Alberta government has had any representation from the federal government regarding the possibility of either the Alberta government or PWA taking over Transair.

MR. LEITCH: Mr. Speaker, I'm not sure in what capacity the Leader of the Opposition expects me to answer that question.

DR. BUCK: Money, Merv, money.

MR. LEITCH: Certainly I've received no such recommendations or submissions from the federal government.

MR. CLARK: Mr. Speaker, a supplementary question to the Provincial Treasurer, and he may want to farm it out to whomever he may consider the Acting Premier for today.

MR. NOTLEY: The fourth Deputy Premier.

MR. CLARK: A supplementary to the Provincial Treasurer. Is the Provincial Treasurer in a position to confirm that negotiations are going on between PWA or the Alberta government, and officials of Transair with a view to Alberta or PWA acquiring controlling interest in Transair?

MR. LEITCH: Mr. Speaker, the Acting Premier today is my colleague the hon. Minister of Energy and Natural Resources. I'm sure he will be able to answer it.

MR. GETTY: Mr. Speaker, I can confirm that Transair has approached Pacific Western Airlines regarding the possible acquisition of Transair by Pacific Western, and Pacific Western is discussing the matter with Transair.

MR. CLARK: Mr. Speaker, a supplementary question to the Acting Premier. Have officials of PWA been

given the green light or the go-ahead by the Alberta government to continue negotiations with Transair?

MR. GETTY: Mr. Speaker, they have been told they can continue discussions with them, but there has been no clearance as to a finalization of any agreement.

MR. CLARK: Mr. Speaker, to the Acting Premier. Is the Acting Premier aware of any discussions between the government of Alberta and the government of Canada with regard to Alberta or PWA acquiring Transair?

MR. GETTY: Mr. Speaker, it's my understanding that the federal government, in discussions with my colleague the hon. Minister of Transportation, has expressed an interest in seeing the Transair situation improved, and that they would consider a possible amalgamation between Pacific Western and Transair one alternative for doing that, and have told that to my colleague the Minister of Transportation.

MR. CLARK: Mr. Speaker, a supplementary question to the Acting Premier. Is the Acting Premier in a position to give assurance to the Legislature that any announcement with regard to Alberta or PWA acquiring controlling interest in Transair will be made here in the Legislature?

MR. GETTY: No, Mr. Speaker.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. Acting Premier. Can the Acting Premier advise the Assembly whether the government of Alberta or Pacific Western Airlines has been able to do any study on the economic viability of the Transair routes, in view of the fact that at least this has been discussed for some time and in view of the losses suffered by Transair?

MR. GETTY: Mr. Speaker, executives and management of Pacific Western Airlines would have a responsibility to do that; not the government.

MR. CLARK: Mr. Speaker, a further supplementary question to the minister. Is the minister in a position to indicate to the Assembly whether the province of Manitoba is prepared to support the acquisition of Transair by Alberta as long as the maintenance shops stay in Winnipeg?

MR. GETTY: No, Mr. Speaker, I'm not able to confirm or not confirm that, because that's a matter that may or may not be discussed today. I think the best thing to do would be to wait until I or, perhaps, my colleague the Minister of Transportation have more information for the House. We would then try to answer that question.

MR. CLARK: Mr. Speaker, one further question to the Acting Premier. Is the Acting Premier in a position to indicate to the Assembly whether the province of Saskatchewan and the province of Manitoba are prepared to support Alberta's acquisition of controlling interest in Transair?

MR. GETTY: No I'm not able to at this time, Mr. Speaker. In a way, that's a hypothetical question.

MR. NOTLEY: A supplementary question to the hon. Acting Premier. Was it the intention of the Alberta delegation at the western conference to bring up the issue so it could be discussed formally at the premiers' conference?

MR. GETTY: Mr. Speaker, to the best of my knowledge it was not on the agenda, therefore it was not the intention to bring it up there. Of course not having participated in the Brandon meetings, I'm not sure whether it has come up or whether it will be discussed today.

MR. NOTLEY: Mr. Speaker, a further supplementary question to the hon. Acting Premier. Will the Acting Premier give the House an assurance that PWA will prepare an overall policy on expansion which can be tabled and, hence, debated in the Legislature?

MR. GETTY: No, Mr. Speaker.

Cow/Calf Program

MR. MANDEVILLE: Mr. Speaker, my question is to the hon. Minister of Agriculture. Is the minister aware that the cheques haven't yet been sent out to company applicants for the cow/calf grant?

MR. MOORE: Mr. Speaker, that is not correct. There have been applications submitted by companies that have been processed and forwarded. There are a number of applications for assistance for which cheques have not yet been mailed. We would expect a good number of them to be out very shortly. Some that we quite frankly had difficulty with in a variety of ways are being checked, not only by my staff but by Treasury and audit.

MR. SPEAKER: I hate to interrupt the hon. member, but it may be a good opportunity to mention that it is well established in parliamentary tradition that when a questioner prefaces his question with a statement of facts, he is responsible to the Assembly for the correctness of those facts.

MR. MANDEVILLE: Supplementary question, Mr. Speaker. The information I got was that the computer had refused all companies because they didn't have social insurance numbers. Could the minister indicate when the applicants for these cheques will be finalized and the cheques will all be in the mail?

MR. MOORE: Mr. Speaker, my information is that out of something in the order of 25,800 applications, fewer than 1,000 have not been completed. There's no way I can indicate when the final cheque will be mailed, because the problems with respect to these applications vary a great deal. The hon. member is correct in saying that there was some problem with respect to social insurance numbers with companies. However my understanding was that that has been resolved, and some cheques have been mailed out in that regard. I would hope, however, that by the end of May at the latest we would be able to say that all cheques have been forwarded and that everyone who

had made an application had been dealt with, either by way of the information that for some reason their application was not acceptable or they had received their cheque.

MR. JAMISON: Supplementary, Mr. Speaker, to the minister. Is there any flexibility [as to] applications being accepted that come in after the January 31 deadline?

MR. MOORE: No, Mr. Speaker. As members know, we extended the deadline from December 31, 1976, to January 31, 1977. In February we took under consideration whether we should allow a further extension, but without extending the deadline and advertising it throughout the province we quite frankly felt that it would be unfair to extend it to some without a general extension and general advertising. My review was that we'd been more than fair in terms of the length of time that applicants had to apply and in terms of the manner in which we provided public information on the program.

MR. JAMISON: A further supplementary, Mr. Speaker. As the rules were changed after the first announcement was made, was this taken into consideration as well, Mr. Minister?

MR. MOORE: That was taken into consideration in November, Mr. Speaker, when some of the regulations regarding eligibility were changed. That is the reason we extended the deadline from December 31 to January 31. That left a period of more than two and a half months after the final change in regulations in which persons had an opportunity to apply.

DR. BUCK: Mr. Speaker, a supplementary question to the minister. Mr. Minister, can you indicate . . .

MR. SPEAKER: Would the hon. member please use the ordinary parliamentary form of address.

DR. BUCK: . . . if the projected estimate the minister had was fairly close, or did we have to use more funds than projected for the cow/calf project?

MR. MOORE: Mr. Speaker, of course I haven't got a final figure on that because of some of the appeals going on with respect to applications. But I can indicate it's very, very close. The last figure I saw was something in excess of \$42.9 million, and we had budgeted \$43 million.

Provincial Park Fire Ban

MR. WOLSTENHOLME: Mr. Speaker, my question is to the Minister of Recreation, Parks and Wildlife. Due to the recent rain in the northern part of the province, have any of the fire bans in provincial parks been lifted?

MR. ADAIR: Mr. Speaker, yes. As a matter of fact a directive will be going out today lifting the ban on all fires in provincial parks north of Calgary. The ban will remain in effect for the areas south and east of Calgary.

But, Mr. Speaker, I would advise any residents going to or using the provincial parks to check with

the park ranger in that area relative to permission to light fires.

Mental Health Legislation

MR. TAYLOR: Mr. Speaker, my question is to the hon. the Attorney General. I understand that some three months ago a review of the mental health legislation was undertaken by officials of the Attorney General Department for the purpose of closing loopholes which permitted proceedings against individuals without their knowledge or consent. Has the assessment been completed?

MR. FOSTER: Mr. Speaker, the review is being conducted both by members of my department and me, and by my colleague the Minister of Social Services and Community Health and members of her staff. Speaking for myself, and I believe for my colleague, the review we have under way has not yet been completed. A number of discussions have been going on between various people on the board and others, and a review, both legal and otherwise. I'm not in a position yet to report the results to this House, nor do I believe my colleague is. But on some occasion it would certainly be most appropriate that we do so. If the House is not sitting when that occurs, I expect we will do so when the opportunity next occurs.

Gasoline Retailing

MR. NOTLEY: Mr. Speaker, I'd like to address this question to the hon. Minister of Business Development and Tourism and ask whether he can advise the Assembly the reasons for the 2 cent a gallon increase in the price of gasoline in the city of Calgary that has taken place in the last several days.

MR. DOWLING: Mr. Speaker, you will recall I did indicate earlier that some increases in gasoline prices allowed by the AIB were not at that time passed on at the pump. At this time that may be a reflection of that AIB approval. I don't know about the specific. I'd be happy to check. But I assume it would be that kind of thing.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. minister. Has the minister been able to compile any additional information on the price margin which full service station dealers are operating under in Calgary and Edmonton? Is he in a position to advise whether any of that 2-cent increase will in fact go to the service station operator as opposed to the oil companies?

MR. DOWLING: Mr. Speaker, since I don't know the specific I wouldn't be able to advise on that. But if the hon. member wishes to talk to me later I'd be happy to provide that material in the House.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. minister. Can the minister outline to the Assembly whether any progress has been made toward arranging compensation terms for dealers who are shut down by oil companies from companies which have not yet arranged the form of compensation as indicated by the minister several times before in question period and during the estimates?

MR. DOWLING: Yes, Mr. Speaker. We feel we've made considerable progress. The companies have adjusted more or less to fit what we felt was reasonable compensation for operators shut down because of the market situation that presently exists.

I should mention too, Mr. Speaker, that in the recent news release from the United States it's interesting to note that there is a move away from self-serve stations and back to the conventional line.

MR. NOTLEY: Mr. Speaker, a further supplementary question to the hon. minister. Can the minister advise whether all the major oil companies have worked out an agreement at this time with respect to compensation, or whether some holdouts still have to be persuaded.

MR. DOWLING: Mr. Speaker, as I recall, we were still corresponding with one company. I will give you an update on that on Monday perhaps, if the question is asked again.

MR. NOTLEY: Mr. Speaker, a further supplementary question to the hon. minister. In view of statements attributed to the minister in March that dealers who are losing money on gasoline can make it up on other goods and services, has any information been compiled by the department to indicate the number of dealers forced to follow this practice, and the impact on the price of those other goods and services?

MR. DOWLING: I wouldn't be able to respond to that at this time, Mr. Speaker. But I do know there has been a considerable move into the service areas and bays. Bay situations especially are now in existence which were not a few months ago.

MR. NOTLEY: Mr. Speaker, a final supplementary question to the hon. minister. Since the exchange of letters in February, which was reported in the press, has the government held any further meetings or has there been any further communication from the Automotive Retailers' Association on the question of compensation and other matters relating to service station business?

MR. DOWLING: Yes, Mr. Speaker. As I recall, there was a recent letter from my office to the principals of the ARA.

Labor Productivity

MR. KUSHNER: Mr. Speaker, I wish to direct my question to the Minister of Labour. In view of the concern being expressed by the manufacturing industry that the productivity in Alberta is not keeping pace with productivity in the United States and other countries, does the minister have any information from government studies or other sources as to whether the level of management productivity in Alberta is a factor in the province losing manufacturing business, and the resultant loss of jobs, opportunities, and investment for the province?

MR. CRAWFORD: Mr. Speaker, I would be very pleased to check with the research people in the Department of Labour and provide the hon. member

with the upshot of any studies that may be available at this time.

MR. KUSHNER: Does the minister have any information whether productivity is a factor of wage levels in the province or physical output, or is it a combination of both?

MR. CRAWFORD: Mr. Speaker, once again I would have to say, the hon. member is into an extremely complex subject which does not readily respond to a simple or short answer as to what effect one factor in so many factors may have. I know a number of studies from various sources have been directed to that type of question, and would be pleased to make them available to the hon. member.

MR. KUSHNER: Mr. Speaker, I wish to direct this question to the Minister of Business Development and Tourism. Has the government met with management or labor representatives to discuss issues on manufacturing productivity in the province?

MR. DOWLING: Yes, Mr. Speaker, we have met on several occasions — departmental people more than I. However, I met very recently with the Canadian Manufacturers' Association and their senior executive. They indicated to me they were having a series of very successful meetings with the principals of the labor movement in Canada. As you know, we participated in a productivity conference held in Edmonton. We're doing a great number of things in the department in an attempt to have what little government input we can to the business of productivity, and that will continue. I'm sure you know that in a province with an expanding economy such as ours, productivity is an extremely important issue, one we are addressing our minds to on a daily basis.

MR. KUSHNER: Mr. Speaker, I wonder if the minister can inform this Assembly if the question of productivity is pretty well a high priority of his department.

MR. DOWLING: Yes, Mr. Speaker, it is. But in order to alleviate any misconception about the word "productivity" — there are so many things that go into it, and it's such a complex issue. There are such things as material input costs, the costs of developing a manufacturing concern in Alberta as opposed to California. You build for winter conditions; you don't have to in California. You build for tide water in California. You build for a railway transportation network to the coast. The costs of construction are sometimes higher; the costs of the materials that go into that. The costs of labor are sometimes higher in a competitive way than in your competing market. The management practices of industry sometimes leave something to be desired. That's only a mere scratching of the surface of all the things that go into productivity.

I'm sure you know that one of our priorities is to make certain that Alberta entrepreneurs and labor participate in anything we do relative to expanding our economic base. So we have developed an industrial development permit system, providing the opportunity for the Alberta entrepreneur to compete. That's the first stage.

We do other things, Mr. Speaker. With the De-

partment of Advanced Education and Manpower we have manpower training courses. There is product research. The Research Council is involved by offering management techniques on the spot. We have a management upgrading . . .

MR. SPEAKER: I hesitate to interrupt the hon. minister's recitation, but for a moment I was thinking that perhaps we were under another order of the day.

Land Development

DR. BUCK: Mr. Speaker, I'd like to address my question to the hon. Minister of Housing and Public Works. It deals with the minister's statement about the city of Edmonton sponging the public in its land. Is it the government's policy that all land owned by the city of Edmonton should be sold as residential lots at cost?

MR. YURKO: Mr. Speaker, I want to make it very clear that the wording used in asking the question is the member's wording rather than my own.

In regard to answering the question, the policy of the provincial government in land-banking with the municipal governments is very specific. It states that half the lots, basically half the land, is to be brought on the market and marketed at cost. The other half can be marketed at whatever the municipality considers appropriate.

DR. BUCK: On a point of clarification, Mr. Minister. Did you say, half the lots at cost, and half at whatever . . .

MR. SPEAKER: Would the hon. member please use the ordinary parliamentary language.

DR. BUCK: Mr. Speaker, to the hon. minister. Did the minister indicate . . . [interjections] Oh, shut up, Diachuk. [interjections]

MR. SPEAKER: Order please. May I ask the hon. Member for Edmonton Highlands whether he rose on a point of order? I couldn't hear what he was saying.

MR. KING: Mr. Speaker, I'm rising on a point of order. I think that to use the term "shut up" in the House is unparliamentary, and I think the hon. member should be asked to withdraw that remark.

SOME HON. MEMBERS: Agreed.

DR. BUCK: Can the hon. Member for Edmonton Highlands please inform the House to whom I was speaking? I was speaking to anybody who was impinging upon my opportunity to speak in this Legislature, Mr. Speaker.

MR. SPEAKER: With great respect to the hon. member, that would not be one of the accepted methods of quelling interruptions. Possibly the hon. member might wish to give some further thought to the expression, undoubtedly used in haste, which would be one we would not wish to import from other parliaments.

DR. BUCK: Mr. Speaker, I will not use "fuddle duddle," but I will expect you, Mr. Speaker, if you would, to ask hon. members to give me the opportunity to ask my question.

MR. SPEAKER: The hon. member is certainly right in his request, and I will do my best to follow that course. But I would be very grateful to the hon. member if he might deal further with the expression he used a few moments ago.

DR. BUCK: Mr. Speaker, I don't feel at all responsible to have to make the . . .

SOME HON. MEMBERS: Oh, oh.

DR. BUCK: Do you want it too? Mr. Speaker, I was interrupted very rudely by an hon. member. Because I feel I have the right to ask a question in this Legislature, I do not feel that I have to retract a statement asking an hon. member or members to shut up.

MR. KING: Mr. Speaker, repartee is a part of the operation of this House to which all of us contribute, including the hon. member opposite. If it is getting out of hand, and if any hon. member thinks it is getting out of hand, to bring it back into control is the responsibility of the office of Mr. Speaker, not individual members of the Assembly. Whatever his motivation, the hon. member used language which is clearly unparliamentary. As a member of this House, I am asking him to withdraw an unparliamentary remark. I think it is worse to have it directed against the membership of the House generally than against one particular member.

MR. SPEAKER: With great respect to the hon. Member for Clover Bar, in his remark concerning the interruptions having been rude I would say to him in the most kindly way possible that one rudeness, if it occurred, should not give rise to another lest the escalating rudeness destroy the decorum of the Assembly.

DR. BUCK: Well, Mr. Speaker, if it's such a big thing to the hon. members of the government, I would be pleased to indicate that if any hon. members were at all offended when I asked them to give me the opportunity to speak, I'd be glad to do so, Mr. Speaker.

But I would like to ask the hon. minister a supplementary question, if I may.

MR. FOSTER: Order.

DR. BUCK: I apologized, what's the matter with you?

MR. NOTLEY: You got it. Accept it in good grace.

DR. BUCK: Mr. Speaker, the hon. Attorney General will get his later.

MR. SPEAKER: Since the supposition on which the hon. Member for Clover Bar based his apology is true, the Chair will accept the apology.

DR. BUCK: Mr. Speaker, may I ask a supplementary question of the hon. Minister of Housing and Public

Works, on a point of clarification. Did the hon. Minister of Housing and Public Works indicate that half the Alberta Housing Corporation land was sold at cost and the other half at whatever the market could bear?

MR. YURKO: Mr. Speaker, as I indicated, the policy at this time in regard to lots which are brought on the market as a result of an agreement reached between a municipality and Alberta Housing Corporation . . . Again, Mr. Speaker, there is an agreement with respect to land banking — I'll get to that in a minute — plus servicing. When Alberta Housing Corporation provides land banking and servicing facilities within the agreement itself, there is a requirement that a minimum of 50 per cent of the lots be marketed at the cost for production of those lots, and the other 50 per cent or less can be marketed by the municipality at whatever costs it deems advisable.

In regard to the Mill Woods land bank, it was undertaken by way of an agreement with the city of Edmonton at the time when this policy was not necessarily in force. This policy originated in the last several years, so our legal interpretation of the agreement between Alberta Housing Corporation and the city of Edmonton in regard to land banking in Mill Woods — there were no clauses within that agreement to bind the city of Edmonton in regard to the specific manner in which it eventually marketed the lots.

Highway Clean-up

MR. MANDEVILLE: Mr. Speaker, my question is to the hon. Minister of Consumer and Corporate Affairs in regard to the insurance policy the Deputy Premier spoke of last week to cover 4-H members participating in the highway clean-up program tomorrow. Could the minister indicate what coverage these 4-H members will have?

MR. HARLE: Mr. Speaker, I would have to take that question as notice. I have no knowledge of the matter at this time.

Manpower Training Allowances

MR. NOTLEY: Mr. Speaker, I would like to direct this question to the hon. Minister of Advanced Education and Manpower. In view of the fact that for two years adult vocational training allowances have stood at \$286 a month for a single person and \$352 a month for a couple, is the minister in a position to advise the Assembly when these allowances will be raised?

DR. HOHOL: Mr. Speaker, the allowances are currently under review by department officials.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. minister. In view of the fact that the last increase occurred in 1975, and in view of the inflation that has subsequently taken place, is the minister in a position to outline to the Assembly the reasons no adjustment occurred in 1976 to take account of inflation?

DR. HOHOL: The matter of allowances is often negotiated with Ottawa, where that applies; and by us, when that is the case. We have never taken the

approach that allowances should be increased in a particular way; for example, indexed or on a specific formula that entirely reflects the particular economic circumstances of the day. We try to do a pragmatic, common-sense job. Part of the hon. member's question will be in the report, and I will be pleased to share it with the Assembly at that time.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. minister. In view of the fact these training allowances are paid only to students with severe educational deficiencies, can the minister advise, in light of his comments about a pragmatic approach, the reasons for setting the level of these allowances below welfare levels and below federal manpower training allowances?

DR. HOHOL: Over the years, I have always taken the position that things like minimum wages, allowances, or whatever, were never intended to be the same as welfare allowances. There is a school of thought that believes no wage should be less than welfare, then surely welfare could drop. They address different problems and different circumstances. I can't accept the proposition that the minimum wage, for example, or an allowance for subsistence or aid to a candidate for a training program should be no less than a likely welfare allowance, for which the candidate wouldn't be eligible in any case.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. minister. Can the minister give the House assurance that in the process of reassessment now taking place, and that the minister advised us of a moment ago, at the very least the new rates will reflect the inflation which has occurred between 1975 and the time the new rates will come into effect?

DR. HOHOL: I'm clearly sympathetic to the concern the hon. member properly raises, but I would make no specific undertakings or commitments until the study is completed and I have a chance to assess it. As I say, I asked for that study and for that report to be made. Certainly that reflects my concern with respect to this problem.

Government Hiring Practices

MR. CLARK: Mr. Speaker, I would like to direct a question to the Provincial Treasurer. It flows from a matter we have been discussing the last two days in the House, with regard to hiring practices of the government. Is it still the policy of the government of Alberta to have new employees, when they come on staff with the government and its agencies, sign the official oath, which includes that the employee "will not, without due authorization, disclose or make known any matter or thing which comes to my knowledge by reason of . . . employment in the public service" of Alberta?

MR. LEITCH: Mr. Speaker, I'm not aware of any change in that policy over the past several years.

MR. CLARK: Mr. Speaker, a supplementary question to the Provincial Treasurer. Is the Provincial Treasurer in a position to indicate to the House whether the

government considers the Bureau of Public Affairs politically sensitive, and what is the hiring practice with regard to senior positions?

MR. LEITCH: Mr. Speaker, a similar question was asked of me a day or so ago, and I said I'd look into it. I haven't had the time to do that yet.

ORDERS OF THE DAY

MR. NOTLEY: May I have permission to ask for reversion to Introduction of Special Guests?

HON. MEMBERS: Agreed.

head: INTRODUCTION OF SPECIAL GUESTS (reversion)

MR. NOTLEY: Mr. Speaker, I'd like to introduce 75 students from the Alberta Vocational Center, Edmonton. They are accompanied by their teacher Margaret Hodgson. They are seated in the gallery. I would ask them to stand and be recognized by the members of the House.

head: GOVERNMENT BILLS AND ORDERS (Second Reading)

Bill 29 The Land Titles Amendment Act, 1977

MR. FOSTER: Mr. Speaker, I'm pleased to move second reading of Bill 29, The Land Titles Amendment Act, 1977. As I said in the House earlier in question period, and publicly, the purpose of this is to clarify the law with respect to the filing of caveats. Under review of a comment arising from the case in the Supreme Court of Canada known as the Paulette case, our attention was drawn to the need for this legislation and, as a result, these amendments have been brought forward.

I should underline and emphasize, perhaps, that it is not the intention or scope of our land registry system to accommodate to the filing of caveats for which no certificate of title has been issued or is in the process of being issued. Indeed we felt it appropriate to clarify the law particularly with respect to Section 136, to ensure that the relationship of the caveator, or the applicant, was tied in some direct sense to the owners of the property or others who have interests in the property. Therefore we intend to make it clear with the amendments in this legislation, and particularly to ensure that no caveat can be registered for which no certificate of title has been issued.

Since first reading, Mr. Speaker, there has been some considerable discussion in the legal community — as one might well expect — with respect to the interpretation of specific provisions of the bill. It's not my intention to deal with them now, since it's inappropriate in second reading, but to outline briefly a couple of concerns and a possible amendment which may help the members of the House in their comments on second reading.

For example, a concern was expressed by many that the intention of this legislation may be to require the production of a duplicate certificate of title when a caveat is submitted to the registrar for filing. That is not the intention of paragraph (2) of this bill relating to amendments to Section 20(3), subparagraph (a). We are deleting the reference to "caveat" in that area, Mr. Speaker, simply to point out — as was clear from the Paulette case — that a caveat is not an instrument under the act and should not be interpreted as such. Accordingly there may need to be additional clarification to ensure that the distinction between "instrument" and "caveat" is clear, and that will be done. I emphasize again it is not the intention that in filing a caveat one should be obliged to produce a duplicate certificate of title. That had caused some concern, particularly to oil company interests and others.

Mr. Speaker, there is a possibility as well of a second amendment that will again affect the members, perhaps, in their remarks on second reading; that is, to clarify Section 136 somewhat further as we attempt to rewrite it and accommodate the earlier language of that section in terms of its scope. There may be an amendment to Section 136, adding a new part thereof which would be (f) following (e). The wording will be suggested and proposed at committee stage, Mr. Speaker. But to assist the members I offer it now: "An interest derived through or by virtue of being a prior or subsisting registered owner." That may assist members in concerns that have no doubt been expressed to them by the legal and the commercial communities.

Mr. Speaker, it is true that there are legal proceedings in the province at the moment that have something to do with some aspects of this bill. I think I should be clear that I cannot and do not intend to discuss the merits of proceedings before the courts, since my office is technically a party to those proceedings and I am appropriately represented by counsel. Therefore I do not intend to get into the merits of the claim that is in the court.

However, in response to a certain amount of public comment on this — indeed questions from members of the opposition following first reading — I think I can say that Bill 29 appears to operate so as to deny certain groups rights they now have, which I think is completely inaccurate; secondly, that it may operate so as to deny certain persons the right to claim through court their entitlement to certain lands, whether under aboriginal claim or otherwise.

I merely want to make it clear, Mr. Speaker, as I have done in this House in the past during question period, that the public, this House, the citizens, perhaps those who have presented petitions concerned about this point, should be careful to draw the distinction between the 'fileability' of a caveat and their entitlement to land.

I emphasize that the amendments in Bill 29 will of course have something to do with the 'fileability' of caveat. The amendments to Bill 29 have nothing whatever to do — and may I underline those words — with whether or not any group of citizens in this province is entitled at law to an interest in land and to the ownership of that land. The only way that question can be resolved at law is through the court, in a different type of legal proceeding — I emphasize different and completely other type of legal proceeding

— than may currently be the case. I don't want this House or the public of Alberta to feel that in moving in this way legislatively, we may be taking away the entitlement of any group to the ownership of land. It's a separate issue and must be settled in another forum.

In dealing with that during question period some time ago, Mr. Speaker, I went on to invite those interested to pursue that claim, in fact, if they chose to do so; or alternatively to give some indication to government that they were willing to sit down to discuss the matter of the entitlement to land.

I am confident that my colleague responsible for native affairs will deal with these general questions much more capably than I. However, I should make the observation that there has been some indication from representatives of certain citizen groups in response to Bill 29 that in fact the discussion process should commence. I believe that is an appropriate remark for me to make and an appropriate initiative for the other group to take.

There has also been some suggestion that the legislation currently before the House in Bill 29 may in some sense perhaps be beyond the jurisdiction of this Assembly, or otherwise in conflict with the law of Alberta. Mr. Speaker, my office, perhaps peculiar to any office in the government, is obliged to ensure that the legislation it sponsors is within the legislative competence or jurisdiction of this Assembly. I assure you that in my opinion it is. I'm also obliged to ensure and satisfy myself that it does not conflict with other laws of this Assembly. I have satisfied myself that that is also true.

Others may wish to debate that point, Mr. Speaker. I am not particularly anxious or excited about doing so. I simply say to you that in my responsibility to this Assembly I would not bring legislation to this Assembly that, in my mind, was unconstitutional or otherwise invalid, or in conflict with the laws of this province.

Mr. Speaker, I want to assure the Assembly that, contrary to a certain amount of earlier speculation, the laws this Assembly is being asked to consider in Bill 29 are laws of general application. They apply to all citizens of Alberta. They don't only apply to one or two or a small group. The land titles system, as a system, is designed to accommodate the interests of all Albertans, not simply a few. But all Albertans must be prepared to bring themselves within the law and within the scope and intent of our land registry system, known as the Torrens System. And I, having responsibility for that system, would not put forward a law or could not suffer a situation where the integrity of our land registry system was in any way compromised or placed in jeopardy. I do not intend to see that occur, nor indeed would members of this Assembly intend to see that occur.

There has been a certain amount of confusion, perhaps — intentional or otherwise — in the minds of some people about the scope, intent, and results of Bill 29. I will conclude my remarks by saying that it is not the intention of the government, of me, or of this legislation to take away proprietary rights of any group. Those rights may exist. They may not exist. That's not for me to argue in this forum. Whether or not they exist can only be determined by a court of law, and is not currently before this Assembly.

DR. BUCK: Mr. Speaker, in rising to present the position of the official opposition on Bill 29, I consider it a privilege to lead off the debate. Mr. Speaker, I would like to say to members of the Assembly that Tuesday evening last was certainly very interesting. We had the opportunity to sit in on a panel at a public gathering on the south side of the city to get the impression of some professional people, and importantly, how this act will affect the ordinary person.

Mr. Speaker, I feel that it's not a black day, but another black day in the history of the government, as this government seems to show disrespect for civil liberties in Alberta. I say another black day, in that this is not the first precedent we will be setting for retroactive legislation. It is the second such legislation brought to this Assembly.

I think we just have to look back to The Gas Utilities Amendment Act, 1976, when there was a case before the Public Utilities Board which looked like a certain small group of private citizens in this province were going to win their day in court. We brought retroactive legislation in this Assembly to deny them that right to have their day before the Public Utilities Board. Mr. Speaker, in my opinion it is a black day in this Legislature and for the people in this province.

MR. CRAWFORD: Your speech isn't that bad, Walt.

DR. BUCK: Mr. Speaker, the hon. minister indicated that in his learned opinion there would be no conflict [between] this act and other laws passed by this Assembly. Mr. Speaker, in my opinion, the 1972 Alberta Bill of Rights is in essence worth no more than the paper it's written on. I feel that this section, "the right of the individual to equality before the law and the protection of law" has been taken away by the retroactivity of Bill 29. What we are really discussing this morning, Mr. Speaker, is that the government in its all-powerful position has the ability, and has used that ability to bring in retroactive legislation. That is the real, real danger, Mr. Speaker. That is the real danger.

I will be going into the circumstance as I summarized it, leading up to this legislation. I think it will be of some information to the hon. members of the government side, especially the backbenchers, to find out what led up to this legislation.

Mr. Speaker, it is at a time like this that it is very, very unfortunate that this House is not divided 40/35. If that were so, this type of legislation would never be on the floor of this Assembly. But we have an overwhelming majority, a government that in many instances is callous in listening to the voices of minorities, the voices of people who are financially, and groups who are not financially able to carry on long and expensive lawsuits. This government is showing its callousness and its indifference to those wishes and that expression of a problem.

We well know that the role of government is to administer the affairs of the majority of the people. But at the same time, it is more important that a government protect the rights of minorities and of minority groups. Mr. Speaker, I say that is where this government is falling short.

Mr. Speaker, the large groups have the political and economic clout to defend themselves. But the minority groups do not have that economic clout or that clout of numbers. That is why it is so important for

government to protect the rights of minority groups and of the little man.

Mr. Speaker, sitting in at the discussion Tuesday last on the south side, I think that we in this opposition, we in this Legislature, have to bring to the attention of Albertans exactly what is going on in Bill 29.

MR. FOSTER: It would be very helpful, Walt.

DR. BUCK: I think the people of Alberta do not realize the import, the seriousness, of what this government is proposing to do in Bill 29. If the people of this province knew exactly what was going on in Bill 29, then church leaders — as some of them have already indicated — civic leaders, minority groups, pressure groups, and concerned people, would be flooding the Premier's office with phone calls and letters indicating their displeasure at this type of legislation.

MR. NOTLEY: Agreed.

DR. BUCK: But, Mr. Speaker, the minister, credit to him with his technique, is saying this is a minor bit of housekeeping . . .

MR. FOSTER: I never said that.

DR. BUCK: . . . to clarify the law, Mr. Speaker. He did say that. To clarify the law. A very fine innocuous term: to clarify the law. But in clarifying that law, Mr. Speaker, the hon. minister is in essence taking away the opportunity for a minority group in this case. But that should not really be the main thrust of this debate. It should be the inherent danger that any group or groups can be picked off in the future.

MR. FOSTER: What am I taking away, Walt?

DR. BUCK: What the member is taking away . . .

MR. SPEAKER: Order please. The hon. member is entitled to be heard without interruption.

DR. BUCK: Thank you, Mr. Speaker. In fairness to the hon. minister, he did want to hear what I was going to say is being taken away. What is being taken away, Mr. Speaker, as I read it, is that from the date the caveat was filed, had they won their case in court, this minority group would have had claims further down the road. But because that caveat was not placed in position, and could not be placed in position, from that day there would not be any claim.

The hon. minister can clarify that point. That's fine. That is the purpose of debate. I will be looking forward to the minister's debate when he comes to that point.

But, Mr. Speaker, the people of this province had better realize what is happening. Groups, church leaders, as I said before, had better realize what is happening, because this is the second time we have had retroactive legislation brought in.

I would like to illustrate a point made by one of the prominent speakers at the forum the other evening. When we talk about indifference, Mr. Speaker, we talk about indifference — the people out there. He told a story about a Protestant minister in Nazi Germany — when we talk about indifference.

I think the matter is that serious, Mr. Speaker, that this story should be told in this Legislature. This Protestant minister said, when the Nazis came to take away the communists, I didn't protest because I wasn't one. When they came to take away the socialists and the labor agitators, he said I didn't protest because I wasn't one of them. When they came to take away the Jews and the Catholics, I didn't protest because I wasn't one of them. Then they came to take me away, and there was nobody left to protest.

What we are trying to do, Mr. Speaker . . . I think this is a very, very basic taking away of basic rights. The people of Alberta had better find out what Bill 29 does to them, because they are having their rights taken away from them.

So, Mr. Speaker, let's review what happened, as I see it. In late '75 — we have to take into consideration the group that filed the caveat because I think it's relevant to this presentation — seven Alberta Indian chiefs filed a caveat on a large section of Crown land in northeastern Alberta. Mr. Speaker, the land, which stretches between the Peace and Athabasca rivers covers part of the oil sands lease north of McMurray. The Alberta government requested the Supreme Court of Alberta to rule an illegality of the caveat. Mr. Speaker, Mr. Justice Lieberman on September 7, 1976 ruled that he wished to await a decision of the Supreme Court of Canada on a similar caveat filed by the Dene of the Northwest Territories. In December of '76 the Supreme Court of Canada ruled against the Dene claim in the Northwest Territories. The caveat was turned down on the basis that under federal law, caveats cannot be filed on unpatented Crown land. It was noted, however, that in some provinces the situation might be different because of different provincial laws.

Mr. Speaker, the caveat case was to proceed on March 28, 1977, but was delayed when it was determined that this government planned to introduce retroactive legislation to disallow land claims on Crown land. The government feels that it's closing a loophole, while the natives feel that the rug has been pulled out from under them in this court case.

For the information of hon. members, what is a caveat? A caveat is a legal document declaring an interest in land and warning buyers to beware. When you place a caveat that's basically what it does. It must show sufficient interest in the land and, as a result, every land transaction within the area is affected. It is usually a lever in negotiating land claims; important, but not crucial.

The hon. Member for Edmonton Highlands says we should send a copy of that to Pierre Berton. I would like to say, Mr. Speaker, I think the people of this province who believe in civil liberties should be flattered that a man of that stature, who is concerned about civil liberties in Canada and in Alberta, would come to sit in on that panel. I think the hon. Member for Edmonton Highlands should be flattered that the man would come.

Mr. Speaker, as the Attorney General indicated, Bill 29, The Land Title Amendment Act is a complicated device. It's a complicated bill. The hon. minister has indicated that there are sections he will be clarifying. That's fine. But, Mr. Speaker, when the hon. Attorney General says that this is just to clarify an act, I just can't buy that, because there is a very, very important issue at stake. That is, the power of this

government, and its inclination, which is more deadly than its power, to bring retroactive legislation into this Assembly not once, but twice.

So, Mr. Speaker, in conclusion, the point that we are trying to make to the people of this province is that this is retroactive legislation. It is a dangerous precedent that is being exercised once and twice. The people of this province had better be aware of the freedoms that are being eroded under this type of legislation. Mr. Speaker, I think it is a dark day in the annals of this Legislature.

Thank you.

MR. NOTLEY: Mr. Speaker, in rising to participate in this debate, I can hardly say that I welcome the opportunity. Quite frankly it would be much better for all of us if this debate were not taking place and Bill 29 were not before the Legislative Assembly. When he introduced the act, the hon. Attorney General made the suggestion that he was in fact clarifying The Land Titles Act of this province. In addition to that I think he used — either inside or outside the House, I'm not sure which — the term "tidying up".

But what is at stake here, Mr. Speaker, as has already been pointed out, is much more than a simple clarification or tidying up. I'm going to deal with the retroactivity aspect in a moment or two, but in order to put my comments in context; it is necessary to set out the events that have led up to the introduction of Bill 29 in this Legislature.

We have to go beyond the filing of the caveat in 1975, it seems to me. I would suggest that perhaps it began a year before, on October 24, 1974, when I put a series of questions to the hon. Premier about the whole issue of land claims not dealing with northern Alberta but with respect to the Stoney question.

At that time the Premier made it clear that the government of Alberta felt that the legal route, the due process of the judicial system, was the one that would have to be followed in order for those who felt they had aboriginal claims to try to establish them. A year later, on October 27, 1975, a caveat was filed by seven chiefs and headmen on behalf of the isolated communities that were not covered by treaties 8 and 11. It's important to realize that when those treaties were signed, a large area of the province, particularly the area in which these communities are located, was not visited. As a consequence, treaties were not signed.

Mr. Speaker, to pursue the background, I would like briefly to paraphrase some of the points that Mr. Bob Young, who is not unacquainted with members on the government side, made to the members and the people attending the meeting in Garneau church the other day. Mr. Young is a solicitor for the Indian Association of Alberta.

Mr. Speaker, in December, 1975 to April, 1976 negotiations took place on how this question of the filing of the caveat would be dealt with. On September 7, 1976 hearings on the case commenced. But the counsel for the province urged at that time that those hearings be adjourned until the Paulette case was settled. I suppose at that point in time, Mr. Speaker, the province was confident that the Paulette case would rule against the issue, and that it would strengthen the province's hand in dealing with the filing of the caveat by the seven chiefs and headmen.

On December 20, 1976, the Paulette case was

settled. [It] ruled against the claim in the Northwest Territories, but the implication was very clear in the judgment that had that effort to file a caveat been made in the province of Alberta, or for that matter the province of Saskatchewan, it would have been successful.

March 10, Crown attorneys indicated that Bill 29 would be introduced, and it would remove the right of filing the caveat on unpatented Crown land.

Mr. Speaker, what are the implications of the bill which we have before the Assembly today? As members of the Assembly entrusted with protecting the rights of all Albertans, I submit that we have to look at this bill very carefully. It may be reassuring to have the Attorney General tell us that it's not really a major change; it's just tidying up. But, Mr. Speaker, we have to look at the implications of Bill 29.

I think it's important to remember that the federal Land Titles Act does not contain any provision for filing a caveat. The Alberta Land Titles Act does. I suggest to you, Mr. Speaker, and to members of the Legislature, that there was a very real reason for that procedure existing. There is a procedure for filing a caveat before registration of title. If such a procedure exists, then any statement to the effect that no registration of caveats on untitled land was ever contemplated is questionable; I suggest demonstrably false. Why would there be a procedure for entering instruments on such land if it was never contemplated that they could be registered? To argue such is an obvious contradiction. Also the old Section 136 allows caveats for an interest held "howsoever in any land," including aboriginal claim.

It seems fair, Mr. Speaker, to suggest that the framers of The Land Titles Act recognized that from time to time persons would pursue an interest in untitled Crown land. I think it was also recognized that the pursuit of such an interest might require a person to file a caveat on such land. In other words, Section 141 cannot be described as a loophole we can tidy up. It appears — and we have to assume as well — that it was deliberately drafted and is for a purpose.

Mr. Speaker, when The Land Titles Act was passed in the province of Saskatchewan in 1906, it did not have a procedure similar to the one contained in our Land Titles Act. But in 1932 The Land Titles Act in the province of Saskatchewan was amended to provide the procedure for filing a caveat. In a moment or two when we deal with the question of homesteaders in the north I suggest the major reason that was inserted in the Alberta land titles act when it was passed originally, and inserted in Saskatchewan in 1932, was the demand of homesteaders to be able to borrow money. The only way they could borrow money would be if the land lender would be able to file a caveat on unpatented or untitled Crown land, land that was going through the homestead process. I suggest from a historical point of view that's why the procedure exists in the Alberta act.

Mr. Speaker, let me move on to the very sobering and, I suggest, very serious question of retroactivity. There is no doubt it's a dangerous precedent. I can't underline how very seriously we must contemplate any legislative action that involves retroactivity. The history of our parliamentary system has clearly shown that retroactive laws are not really to be considered. Only in the most extreme circumstances,

where the public good can be demonstrated beyond any question, should we even contemplate retroactive legislation. But the onus, Mr. Speaker, is upon those who would pass it, to show clearly there is no alternative, not simply to say, members of the Assembly, we're just tidying things up.

Mr. Speaker, as Mr. Borovoy from the Canadian Civil Liberties Union pointed out the other day at the Garneau church, I suggest that laws should apply to the present and the future, not the past. It is a very dangerous precedent we are setting today.

Mr. Speaker, we've had a good deal of political hay made by members of the government as a result of a bill passed in the fall of 1974. That bill permits people to sue the government of Alberta. They no longer have to get the right of the Crown to sue the government of Alberta. I can remember the fanfare that accompanied the introduction of that bill — you know, "another step forward in democracy for the open government". Well, Mr. Speaker, if we accept the precedent of Bill 29, what good does that do? Because if somebody wants to sue the government and the government is about ready to lose the case, we'll simply change the legislation retroactively to when the case began.

DR. BUCK: Right.

MR. NOTLEY: Mr. Speaker, we've got to consider what we're doing here. People make fun about Pierre Berton, Alan Borovoy, and some of the others coming. But I suggest to you the fact that people elsewhere in Canada are concerned enough to come is something that should at least cause us to take a second look at this legislation. Some people who are eminently qualified and respected across the country for their concern about civil liberties are saying, what are you doing, with this legislation? It's not just a case of tidying up the act.

Mr. Speaker, surely if it's a case of tidying up the act, we should wait for the courts to make that decision. Why are we in such an all-fired rush to clarify the legislation? We have a judicial system and that judicial system should be making the clarification, not the 69 members of the government caucus — on a retroactive basis, after a case has begun.

No, Mr. Speaker, the government is not going to be able to persuade the people that they're dealing fairly on this one.

What will this law do? As I've mentioned, right in the middle of a court case it is taking away the right to file a caveat. Right in the middle of a very expensive court case that has cost the native people of this province a large amount of money. We know that in any legal battle it's easy for either large corporations or governments to delay, to procrastinate. They've got the money to finance the legal battles one step at a time, or to delay. But for other groups, particularly underprivileged groups, justice delayed is justice denied.

What we're really saying, Mr. Speaker — and I'm sad to have to make this comment — is that we have told the native people of Alberta, yes, go to the courts, but only if you lose. If we think we might lose, we'll change the law retroactively.

Mr. Speaker, what about the aboriginal rights question? The land was occupied by the people in question for generations. The isolated communities con-

sist of people who never signed away their aboriginal rights. Perhaps some individuals in those communities may not have aboriginal rights. But the majority of the people, and certainly the seven chiefs and headmen who filed the caveat action, represent a group of people who were missed when the treaties were signed. They have a claim, and it's not for me to judge . . . The only comment the Attorney General made that I can agree with: it's not for us to judge the validity of that aboriginal claim. But what I think we have to ask ourselves is, do we have a right to deprive them of an important legal mechanism?

I realize the claim itself has to be separated from the filing of a caveat. We all realize that, Mr. Minister. But the issue is whether or not an important legal mechanism should be retroactively taken away. I say categorically, no, it shouldn't be.

The hon. Minister Without Portfolio in charge of native affairs mentioned that individuals could apply for their entitlement. He pointed out the distinction between entitlement and aboriginal claims. But what is important on the part of the people in these communities, as I understand it from talking to them, is that they want to make a collective case for their land claims, that they feel they have land claims, and that they feel the only way they can make the judicial system work effectively for them is to file a caveat so at least developers in the area are put on notice that there may be an interest. Little point in gaining land claims, if development has taken place without any consideration of the possible implications for the people living in the community.

Mr. Speaker, I want to deal with perhaps the most difficult of all the questions surrounding Bill 29. That is the argument put in the *Edmonton Journal* the other day, which is essentially that the public interest, the overall public good of the province, must outweigh the rights of the minority. Again let us be very careful not to confuse the filing of a caveat with a development freeze. The two are not the same. What a caveat would do — as the Member for Clover Bar pointed out and Mr. Young pointed out when he spoke at the meeting the other day in Edmonton — is simply put the parties to any future development on notice that there is an interest which will be adjudicated, that if they go ahead they go ahead at their own risk recognizing they have to take into account the interests of the people who have lived in that area for generations. We must also recognize, Mr. Speaker, that a caveat is not necessarily granted just because it's filed. It must be demonstrated to the satisfaction of a judge.

Mr. Speaker, as I read over Bill 29 I found one other point. The hon. Attorney General says Bill 29 is not discriminatory; it doesn't offend The Alberta Bill of Rights or The Individual's Rights Protection Act, because it applies to everyone. Well if it applies to everyone, Mr. Attorney General, we are going to have some problems in northern Alberta as far as homesteaders are concerned. Because we are taking away the one right that lenders have, which is to file a caveat on unpatented Crown land.

I checked with the lands branch the other day and am told that even the Agricultural Development Corporation files a caveat on unpatented Crown land when it lends money to a homesteader. Private lending institutions don't like to lend money to homesteaders, and they don't do it very often. But when they

do, they use the procedure here of filing a caveat on unpatented Crown land. I'm not sure what the amendment the Attorney General mentioned he plans to introduce will do. Perhaps it will solve that problem. But looking over the act as it was presented to us, in my judgment it would rule out homesteaders borrowing money, because the lender would no longer have any protection for the money lent to northern Alberta farmers applying for homestead sale.

Mr. Speaker, I conclude my remarks by saying that frankly I hope the government of Alberta would withdraw Bill 29. It should get on with the job of honestly attempting to negotiate with the people involved. Mr. Beaver indicated to me that if there had been serious negotiations the entire case would never have commenced.

Mr. Speaker, for us at this stage, right in the middle of a court action, to take away an important legal instrument on a retroactive basis is totally undemocratic, and maybe says more than government members would like to admit it says about their understanding and concern for the powerless; the small people, the defenceless people in this province of ours. We've heard a lot about building the new west. Well building the new west is not just a question of power. Far more important, it's a question of simple elementary justice, and in Bill 29 we are trampling justice rather than pursuing justice.

MR. YOUNG: Mr. Speaker, I rise to speak on Bill 29. Like the two speakers from the opposition, I too shall commence my observations by reflecting upon a meeting held on May 3 in the city of Edmonton.

Mr. Speaker, it is important for this Assembly and members of the public to be aware of what actually went on at that meeting. Seven speakers were at that meeting. In attendance were a number of MLAs. I was one of them. At least three of those speakers admitted they were not sure what they were speaking about. However, a number of persons trained in the law were at the meeting. One of them was Bob Young, the counsel for the isolated communities. I stand here and give Bob Young credit for expressing what I understood to be a correct legal interpretation, if somewhat abbreviated in certain spots. At least it seemed to me to be correct.

Mr. Speaker, I stand here and say to this Assembly and to citizens of this province that a number of people allegedly speaking on behalf of the Canadian Civil Liberties Association deceived some innocent, sincere, and thoughtful people who went to that meeting to try to understand the issue. I am appalled at the ethics of some persons who heretofore have been regarded, at least by me, as people who stood on guard and were concerned about the rights of individuals in this province and in Canada, of all of us, of society.

Mr. Speaker, seven speakers were at that meeting — four MLAs present. I was there for an hour and three-quarters or better. After the seven speakers a resolution was advanced. At no time did the persons who organized that meeting ask to have the other side, the proponents of Bill 29, present their case. After the resolution was presented, we were told: if those in the audience wish to speak to it they can stand on their chairs and shout, and they may have to do that in order to be heard because there is only one microphone. Mr. Speaker, that is my perception of

the meeting on May 3 at Garneau United Church. I sincerely regret that I believe many sincere, thoughtful people were led down the garden path by persons who had the knowledge, and supposedly the ethics, to avoid doing that.

Now I come to Bill 29, Mr. Speaker. The land titles system in this province is based upon the Torrens System of land registry. It provides for the definitive identification of title holding. As I understand it, once a title to land has been registered in the system, the title holder is assured that there are only two ways by which an interest can be claimed against that title. The first way, I would like to suggest, is by voluntary means on the part of the title holder. He can arrange a mortgage, a transfer, an easement or, by some of his voluntary actions, may register a caveat. Caveats sometimes are used as a means by which a purchaser in an agreement for sale may register his interest or by which a lessee in the case of a lease exceeding three years may register their interest.

The other way caveats may be registered — or by which interest against a title may be expressed — is an involuntary way, a method which is available without the consent of the title holder. That occurs when there has been a court judgment or action, and the court permits or orders. That can also happen by way of caveat. In both instances there is a direct relationship between the caveator and the title holder — a direct relationship.

What is the significance of a caveat, Mr. Speaker? It's simply an advice, a simple notice to those who have an interest or may think they have an interest in the land, that there is an interest which may be attached to that land. It has a second value in that in the case of more than one interest or caveat, there is a priority ranking because of the dating and timing of the placement of the caveats.

But it's nothing more than that. It doesn't establish a claim. It's a notice that there may be a claim, but it doesn't establish a claim. In fact the courts may declare there is no claim when the matter goes to court. This bill is about caveats. We're talking about notices, not about the validity of claims as such. Mr. Speaker, with respect to the speakers at that forum in Garneau United Church, who should have known better, that was not made clear and in fact was mightily confused in that meeting.

Mr. Speaker, I have suggested that in all our history, for 73 years in the province of Alberta, it has been the understanding that caveats can arise in the manner I have described, by voluntary or involuntary action, after an interest has been defined by the courts. To allow caveats or claims by any other method — by a method by which there is no direct relationship between the caveator and the title holder — would, I submit, destroy the land title system in this province.

It would mean that no farmer, home-owner, or businessman could ever be assured of the security of his title. In the instant case, if the application to file a caveat which has been mentioned here did succeed — and it's uncertain whether it would — it would have provided a third method, a third interpretation of the law. Had that occurred, we may have been able — in the event one walked across a piece of land and broke a leg — to file a caveat against the title holder of that land. In that case, what security would there be in our land titles system?

Mr. Speaker, some other facts haven't come out and didn't come out at Garneau United Church. Five thousand — I repeat — approximately 5,000 caveats were applied to be filed in the instant case. It was not just Crown land. It would have attached to the title holder of every parcel of real estate in the town of Peace River and to every farmer in the Fort Vermilion area. Mr. Speaker, we are not talking about legislation to protect the Crown. We're talking about legislation which may be necessary to confirm the interpretation, which has existed in this province for 73 years, of what The Land Titles Act is and what it means. We're talking about a situation — if the application had been successful — which would have totally changed our land titles system, which would have destroyed any sense of security any title holder in the whole Peace country could have had.

I think one can generalize from that. In my view it would have established a major principle of interpretation, and it might well have flowed south. Mr. Speaker, had this application to caveat been successful, I say again that every title holder in the town of Peace River would have woken up one morning and found his title was clouded — that he had a caveat against it, couldn't get a mortgage and couldn't sell freely. Now I ask you: in that event, who are the powerless, who are the innocent? What is the nature of the question before us?

I leave that for hon. members to think about, because I want to turn my attention to a different facet of the problem. In the case of the non-treaty Indians on whose behalf this caveat was supposedly being applied, what would they have achieved by it? What would it have meant? Apart from it being an embarrassment to the government, and apart from it being an embarrassment and a confusion to thousands and thousands of Albertans — innocent Albertans who knew nothing about what was happening: apart from that, they would have gained nothing. Because it is not a recognition of any aboriginal land claims. As the hon. Attorney General has suggested, that has to be determined in the courts in a totally different type of undertaking. I think that should be very clear. In short, Mr. Speaker, no legal rights are being removed from anyone as far as a founded claim is concerned.

Mr. Speaker, as far as retroactivity is concerned, I regret having to consider retroactive legislation. I regret it very much. I regret it so much that I have spent hours trying to understand a legal issue which I find very complicated and very difficult to comprehend; so difficult, it seems, that some lawyers who purport to speak on behalf of civil liberties, haven't understood it.

Mr. Speaker, I regret it has to be retroactive. But I would regret even more the chaos that would follow if all the residents of Peace River were to wake up one morning and find caveats against their titles as a consequence of a court case about which they knew nothing and had no information. I would regret it if all the farmers in Fort Vermilion — or, for that matter, in the constituency of Spirit River-Fairview — woke up to the same event. When we talk about the little man and the individual, Mr. Speaker, I wonder just who we're talking about.

I submit that this issue has not been well considered to this point, and I invite the hon. members to look at the full context of the issue. I suggest that

what we're talking about here is the foundation of the land titles system as it applies not just to Crown land but to land on which most Albertans hold titles of one type or another. It's that fundamental, that pervasive, and that far-reaching.

Finally, Mr. Speaker, I say again that it does not and would not enhance the position of the aboriginal claims in any respect other than in a harassing manner. It does not advance those claims one whit in a court of law, not one whit. Surely we do not need to have a caveat filed on Crown land to make sure that the Crown isn't going to sell the land away from the Indians, so if they ever do get their claim established, as they think they have it, there's still going to be land here to pay. Surely, Mr. Speaker, that isn't necessary. Surely the governments will live up to their responsibilities, if in fact the court finds that there is a responsibility.

Mr. Speaker, I'm asking every member of this Assembly to think hard about this piece of legislation, and to support it for what I regard as the best interests of all Albertans, and that includes the non-treaty Indians.

MR. KING: Mr. Speaker, I rise to speak briefly on this as well, particularly, I suppose, because I was one of the three government MLAs who attended the famous meeting of May 3. Some unfortunate implications about that meeting were conveyed in the media that I would like to take a moment to correct.

I have spoken to two ministers of the Crown, and to the best of my knowledge the sponsors of the May 3 meeting did not invite the government to participate in defence of Bill No. 29. Particularly, no invitation was extended to the Attorney General, who is sponsoring this bill, or to the hon. minister responsible for native affairs, under whose purview these negotiations fall, to participate in that discussion on Tuesday evening and to advance the government's reasons for the introduction of the bill.

Perhaps that is not unreasonable, Mr. Speaker, noting that the general flyer — which I think all of us received and which was distributed widely throughout the city — said that the meeting was called to oppose Bill No. 29. Not to discuss it, not to consider the reasons the government might have for introducing the bill; rather, the meeting was called to oppose Bill No. 29.

In addition to the fact that the government was not invited to attend that meeting to explain its introduction of Bill No. 29, I would like to add that the three government members who attended did not attend in response to any particular invitation. We attended in response to the same knowledge generally available to the people of the community: that the meeting was going to be held that evening, that it was going to deal with Bill No. 29, and that the speakers were going to be as listed on the bill.

Notwithstanding the fact that none of the organizers may have known prior to our arrival that we were going to be there, it is a fact that our presence was recognized very early in the formal proceedings of the evening. That is to say, the organizers introduced us to the assembly and acknowledged the fact that we were government MLAs. As my hon. colleague from Edmonton Jasper Place has said, notwithstanding the fact that they were aware of our presence in the hall, we had seven people speak in

opposition to the bill, we had comments from the chair, and we had no indication that there was any interest from the organizers that we should come to the front of the hall and speak in defence of Bill No. 29.

A resolution was then introduced for debate. During the course of explaining how debate on the resolution would proceed, the chairman made the comment earlier alluded to by the hon. Member for Edmonton Jasper Place that since there was only one bank of mikes in the hall and they were at the lectern at the front, they were going to have to be used by the chair and by the panelists; and anybody among the audience who wanted to speak was going to have to speak up. Quite frankly, Mr. Speaker, at that point I made what I thought was the only rational decision. Having been there from 7:30 until 9:20 in the evening, having gone through the entire formal presentation on one side of the issue, and having been advised indirectly, as was everyone else in the hall, that if I wanted to speak I could yell, as it were, I left. For those who were in the hall and had come hoping to hear a debate, I regret that such was not possible under those circumstances. But I would say in good conscience to those people: I think the opportunity for a debate existed to a certain point in time, and was obviously not planned for by at least some of the organizers. I regret that.

When I made an interjection about the presence of Mr. Berton at the meeting, I didn't mean to suggest he shouldn't be there. And I didn't mention Mr. Borovoy; so if another interjection suggests that that is my feeling about Mr. Borovoy, that is not the case.

I respect the contribution that Mr. Borovoy and his supporters on the board of directors of the Canadian Civil Liberties Association have made to a number of important causes in this country for as long as I can remember, frankly. As someone who was opposed to the implementation of the War Measures Act at the time, I very much admired the position of the Canadian Civil Liberties Association.

I agree with Mr. Borovoy and with many others that the introduction of retroactive legislation should always be a concern to every interested citizen in this province, and to each and every one of us as legislators. Insofar as debate on this issue takes place which is directed toward the dangers of retroactive legislation, the necessity to deal carefully and extremely rarely with retroactive legislation, I cannot help but endorse the debate and those who are contributing to it.

Mr. Speaker, the fact that retroactive legislation is an extremely sensitive action by any government does not say that it is unique to this province or to this situation. Indeed, in this and other jurisdictions, there has been retroactive legislation when the judgment of the government of the day has been, as the hon. Member for Spirit River-Fairview suggested, that there is no alternative, given the peculiar circumstances. In my judgment, Mr. Speaker, and I gather in the judgment of my colleagues, that is the situation we face today.

As has been mentioned, the concept of land law in the British system depends fundamentally upon the fact that the Crown, in the first instance, has an unobstructed interest in land, except as they, the Crown, negotiate or agree to.

There is absolutely no foundation, prior to the sign-

ing of the treaties of the last century, to any concept of aboriginal interests in land in the British system. The way we deal with the concept of aboriginal interest in land is a peculiar development of this country and, I think, Australia and New Zealand, and is a relatively recent appendage to our overall concept of land law; that is, it is something we have had to consider only in the last 70, 80, or 90 years.

One of the things which has not been mentioned, and which I think we as legislators must consider, is the alternative that is going to devolve on 5,000 titles to patented land that lies between the two rivers. It is important for us as legislators to consider the individuals who own land in the town of Peace River, the farmers who farm at Fort Vermilion, and the oil workers who live in areas 3, 4, 5, and 6 of the new town of Fort McMurray. If the hon. members opposite are not aware, they should now be aware that the attack on the concept involved in this situation is an attack which, if successful, is going to fall more on the shoulders of those individual title holders than on the government. Because quite frankly the Crown land that is between those two rivers can easily afford to remain as Crown land for another five or 10 years. I don't think that in very many respects it's going to be harmful to the development of the north at all.

The question is: what do those who oppose Bill 29 have to suggest as an alternative to the clouded title of the 5,000 title holders? I was interested to hear the hon. Member for Clover Bar stand in his place and represent the official position of the official opposition. I'm sure that will be gratifying to the people who live in the hon. Mr. Clark's constituency, given the fact that they are presently dealing with a situation where privately deeded land is infringing upon the resolution of some unextinguished land rights in that part of the country.

MR. CLARK: No serious problem.

MR. KING: The British North America Act of 1867 — we should have one for 1967 — reserves unto the federal government the responsibility of relating to the native peoples in the country. Section 11 of the natural resources transfer agreement act of 1930 says specifically that if at any time subsequent to 1930 the federal government, as a consequence of negotiating unextinguished rights with aboriginal peoples within the boundaries of the province of Alberta, has to require land in order to meet its commitment to these people, the government of the province of Alberta must deliver that land up to the title of the government of Canada in order that the government of Canada may meet its obligations to the native people.

The alternatives presented to the isolated communities some three and a half years ago were these: first, if they wanted to make their claim on the basis of aboriginal rights, that was beyond the constitutional competence of the provincial government, that they should negotiate their claim on the basis of aboriginal rights with the federal government, knowing that the Natural Resources Transfer Agreement Act of 1930 was going to require us, the province, to deliver up to the federal government any of the land which the federal government needed to provide a settlement to the people of the isolated communities.

The second alternative was that if they wanted to negotiate on the basis of possession rather than aboriginal rights, that was within the competence of the provincial government under the BNA Act, and that we, the provincial government, would negotiate with them on that basis if the question of aboriginal rights was not made an issue. The third alternative [with] which they were presented was to go to court for a reference.

They were given three alternatives. The two that relate to negotiation, either on the basis of aboriginal rights or possession, remain. The third, which was a reference to the courts on the direct question of rights, remains. Those have not been extinguished.

Mr. Speaker, it seems to me — and I am certainly not finalized in my thinking on the issue — that there are two levels of rights. There are primary rights which, as the Americans would say, are inalienable. And there are secondary rights. There are the rights to use tools in order to achieve an end, and there are rights to enjoy the end in and of itself. Mr. Speaker, I cannot help but believe that what we are talking about here is on the one hand clearly a secondary right: the right to use one particular tool to achieve an end. As such, I consider it to be less important, frankly, than the other right which is involved and which has been referred to by the hon. Member for Edmonton Jasper Place: in all questions of land, whether for native people, members of the Oil, Chemical and Atomic Workers union who own a house in Thickwood Heights in Fort McMurray, or a senior citizen who lives in the town of Peace River, there must be a direct relationship between those who own the land and those who claim an interest in the land. That seems to me to be fundamentally important.

In that respect, Mr. Speaker, I cannot accept that we would create the possibility, not only in this case but in others, that there should be an indirect relationship between the owners of land and those who claim an interest in it. Further, Mr. Speaker, when in considering this complex problem I realize it does not remove from the isolated communities any of the three alternatives originally presented to them in 1974. Further, Mr. Speaker, when I appreciate that this bill does not deal with the question of the aboriginal rights of the people of the isolated communities, then in this case I have no hesitation in concluding, after careful consideration, that Bill 29 is necessary under these circumstances.

MR. BOGLE: Mr. Speaker, it is a privilege for me to rise today in this Assembly to join in the debate on second reading of Bill 29, The Land Titles Amendment Act, 1977.

Confusion, misunderstanding, and uncertainty have done a little more than cloud the intent of this bill. Many native and non-native Albertans have been given what appears to be misleading information on this matter. It is my hope that the comments I am about to make may ease certain of their concerns and provide assistance in their deliberations.

In the spring and summer of 1975 I travelled extensively throughout Alberta visiting communities. My visits in the most northern part of the province, with the assistance of the MLAs for Lesser Slave Lake, Lac La Biche-McMurray, and Peace River, were enlightening and meaningful. We visited some of the isolated communities including Wabasca, Desmarais,

Sandy Lake, Little Buffalo, Peerless Lake, Loon Lake, Anzac, Fort McKay, Chipewyan Lakes, and Trout Lake. The objective of these visits was to see, speak with and, most important, listen to the residents.

Mr. Speaker, the most constant concern expressed to us during these visits related to tenure of land, land that many had resided on for generations. My predecessor, now the Minister of Recreation, Parks and Wildlife, recognized the same concern, as did his colleagues and other officials of this government. I had the pleasant responsibility of steering through cabinet my first major policy recommendation: the framework to deal with this concern.

On June 3, 1975 the government of this province established the Land Tenure Secretariat. The secretariat, which is under the auspices of the Minister of Municipal Affairs, has as its main responsibility the challenge to provide residential land tenure to eligible individuals in these communities. As with the majority of innovative projects, the most difficult question rested with the manner in which this responsibility was to be carried out. A conscious decision was made, stressing that it was fundamental that the project be carried out slowly and with full consultation between the individuals involved, the communities affected, and the government of the province of Alberta.

Mr. Speaker, in my travels as minister responsible for native affairs, I have always attempted to relate to individual Albertans and to the impact government policies have on our residents. In this debate on Bill 29, I must reiterate one of the fundamental philosophies of this government. We have always felt that the role of government is to protect the rights of the individual citizen and to safeguard the public good. We have seen many examples of this philosophy in action over the past several years.

In the forefront, Mr. Speaker, are two landmark pieces of legislation of passed in this Assembly in 1972. The Alberta Bill of Rights, and The Individual's Rights Protection Act have been and continue to be the fundamental guideline for all major legislation proposed by this government. Bill 29 is no exception to this principle. It infringes neither upon the rights of the individual nor upon the public good.

Mr. Speaker, the Land Tenure Secretariat places a heavy emphasis on the rights of the individual. It is involved in providing legal title of public land in northern Alberta to eligible individuals who have been living there for many years, the majority of whom are of native ancestry. Along with this title, the Land Tenure Secretariat is encouraging the individuals involved to develop the personal responsibilities inherent in land ownership. Other departments of government have developed programs to complement the rights and privileges of individual Albertans residing in our north — programs such as rural electrification, northern water and sewer, the hot lunch program in our schools, the rural and native housing program, and the emergency repair program, to mention but a few.

Mr. Speaker, the position of this government on the question of individual rights is clear. The record speaks for itself. Bill 29 does not in any way challenge the rights of the individual as we have always known them to exist. These rights are and will continue to be maintained side by side with the preservation of the public good.

Before reviewing the manner in which the Attorney General was going to proceed following the discovery of the technical legal problem which was previously not known to exist, his staff — which has consistently worked closely with my staff on questions such as Indian land claims and aboriginal rights — discussed and evaluated the actual questions involved in both a legal and ethical framework. Mr. Speaker, the Native Secretariat in discussions with the Attorney General's Department ensured that individual rights that have always been known were not to be altered.

Mr. Speaker, for our part we approached the question with a developed understanding of what in actual fact are aboriginal rights and Indian treaty entitlements. The former has yet to be firmly understood. In some schools of thought the term has been expressed as a divine right of citizenship, a total right of ownership of all that exists now and not just that which was known previously. Other schools indicate that unless conquest through devastation, war, and death — and to the victor the spoils — ownership remains to the first inhabitants. Others view it as a mechanism to arrive at an equitable allotment of land for use and benefit. But in all cases the statement that remains constant is that the benefits of the bulk of society become a right — not because of hard work, but because of their inherent right. However, treaty entitlement policies have been evaluated through laborious research and — as I mentioned in this House during my estimates — have been accepted as policy by this government.

From our history of this province, we realize that the federal government has made sincere attempts to provide a method to accommodate the earlier inhabitants rather than proceeding through war and bloodshed, which usually characterized the settlement of land in many other nations. This country has always believed a peaceful interaction would be more positive. Treaties were struck to ensure that these earlier inhabitants would not be dismantled, that their traditional lifestyles would not be discarded rapidly, and that their familiar understandings would not be wiped out suddenly.

Mr. Speaker, treaties 4, 6, 7, 8, and 10, entered into between the years 1874 and 1906, outlined the obligations that Canada would fulfil to the earlier inhabitants, and made provision for the cessation of land mass cited in the document. Evidently its purpose was not to contain the development of the people; its intention was rather to create an orderly and just settlement of all the land. However, over the passing of years, the life and culture of a proud and dignified group has often been eroded. Strength has often been replaced by weakness. Confidence slowly lowered to insecurity. Pride of one's selfhood almost eliminated, but not totally lost. With positive development and sincere leadership, the young spokesmen who today are in constant touch with their elders, these earlier inhabitants of this province, will continue to increase in their contributions to our total society, not just an Anglo-Saxon society, but a multicultural society that takes its great strength from all who work and produce for its survival and success.

In speaking on Bill 29, an act providing for amendments to the land title system which was adopted in Alberta for the just and orderly transaction of land in 1906, I wish to stress that its purpose is to spur on the resurgence of the development of its citizens, not

to inhibit them. However, a certain element of our society may feel affected by the removal of the legal technicality by Bill 29. Mr. Speaker, certain solicitors and attorneys are the only real benefactors in this situation. Through lengthy and costly challenges in the courtroom, totally paid for by the taxpayers of Alberta and Canada, in reality [they] accomplish little, and in fact hamper the attempts or the aspirations of the individuals to pursue their case.

Mr. Speaker, Bill 29 is intended to prevent abuse of the system of law which is the cornerstone of our society, [and] not to eliminate any right.

This government has outlined its policy on treaty entitlement, the right to land which the earlier inhabitants were granted in the treaties. For your information I wish to outline this entitlement procedure again. Number one, should an individual feel that his father, grandfather, or great-grandfather was not party to a treaty and should have been, he should approach the federal Department of Indian Affairs and Northern Development, and request an adhesion to the treaty which covers the area in which he lives. Number two, after review and ratification of his claim to entitlement by the government of Canada, the federal Minister of Indian Affairs and Northern Development would approach the appropriate minister of the province for land to fulfil the land obligation outlined in the treaties, through the provision of the natural resources transfer act of 1930. Number three, the Alberta government has gone on record, stating that it will upon agreement with the two ministers provide 128 acres per band member, counted at the time of treaty signing, for those individuals who are rightfully entitled.

One of the real concerns is to be fair and equitable. We will accommodate the land obligations under the treaties for those Indian people who have an entitlement in the same manner as all other Indian people in Alberta have been treated previously.

Mr. Speaker, one thing should be abundantly clear. This process which transfers land to accommodate treaty entitlement is similar to fulfilment of entitlements which occurred in the past. Therefore the land would be controlled by the federal government and only used by the Indians. In northern Alberta there is an extremely complicated set of variables. With the Ewing Report of 1936, and the MacDonald Commission of 1944, conditions in that part of the province have been documented and discussed. Over 41 years of recorded dissertation have characterized this region.

Mr. Speaker, I might very briefly outline for members of the Assembly a situation that exists in the isolated communities, as it has been raised by some hon. members in this House during debate on this bill.

There are basically four different types of peoples living in the isolated communities. There are treaty Indians whose fathers, grandfathers, or great-grandfathers were in fact covered by treaty, and who have moved from a reservation to one of the isolated communities. There are Metis, whose fathers, grandfathers, and/or great-grandfathers took out scrip in the early years. There are non-native Albertans who moved in over a period of time.

Lastly, there are non-status Indians. We don't know how many; it's difficult to tell. But there are some people whose fathers, grandfathers, or great-

grandfathers apparently were not party to the treaties. They are the people we are interested in. There is a mechanism in place. It's entitlement. We will fulfil our obligations if those individuals come forward.

Mr. Speaker, we didn't invent the problem we now find ourselves in. We inherited it. But we will not back away from our responsibility.

The residents of these communities, through their own individual ability to develop themselves, are standing up and requesting the privileges and obligations that other Albertans have taken for granted: good schools, maintained roads, clean water, adequate stores, efficient sewage systems, positive employment opportunities, telephones, and of greatest importance, title to land, and an opportunity to have a say in the ever-changing nature of the communities in which they reside.

Above and beyond the established entitlement procedure, Mr. Speaker, this government is committed to do much more. The Land Tenure Secretariat was established to provide title to eligible residents, and is attempting to ensure the involvement of individuals in decisions affecting their communities.

It is a slow process, and mistakes may occur. We are prepared to listen and if necessary revamp the mechanism to accommodate individual concerns. As always, we are ready and willing to listen and, most importantly, to act. But we are not prepared to tie up and curtail the development of the people and the whole of this province in a lengthy and costly court battle that will do little more than drive a deep wedge between our citizens.

It is our sincere hope that actions are guided by justice and forethought. It is our desire to assist those who wish to help themselves. It is our firm belief that with the provision of the necessary resources and opportunities, the individuals throughout this province, throughout this country, can strive through their own decisions to develop a positive ability that we all have for the betterment of the communities in which we believe.

It is my view that no decision is often the worst decision one can make. This government has ensured that the rights of the individual will be protected. This government is committed to accommodate the land obligations under treaty entitlement. This government is committed to make available land title to eligible individuals of communities in the northern part of this province who have had a lengthy residence there. This government is moving in the strengthening of the delivery of services to the people in the north, and this government will continue to work closely with the individuals who most need assistance to help themselves.

Speaking in support of Bill 29, Mr. Speaker, I have briefly outlined the nature of this government's stand in regard to our native people. By ascension into law of this bill we will be assisting those native people in real need of our support, by indicating that we are prepared to accommodate their objectives under treaty and our obligations. We do not wish to inhibit their individual growth by curtailing total development of the north.

In short, it is our sincere wish to ensure that all people are included in our proud Canadian society on the basis of their abilities, rather than condemned on the basis of their disabilities.

MR. CLARK: Mr. Speaker, I'd like to make a few very brief comments with regard to second reading of Bill No. 29.

I think, Mr. Speaker, I would start my remarks by saying that I detect a very uneasy and a very concerned attitude in the Assembly today. I don't necessarily agree with a large portion of the comments made by the Member for Edmonton Jasper Place, but I do appreciate very much his sincerity and the genuineness with which he presented his particular point of view.

I don't profess in any way, shape, or form to be a member of the legal fraternity. It has been interesting to me, though, to note this morning that the government has relied to a very great degree upon members of the Assembly other than those who are members of the legal fraternity to give the interpretations here today. I look forward with a great deal of interest to the comments made by the Attorney General either in conclusion of the debate, or in committee, on this question of the effects of caveats being placed on the land in the town of Peace River, the farmland in Fort Vermilion, and the land in the Fort McMurray area. Because the people in the legal community who have made representation to my office have expressed a totally different interpretation as to the caveats being filed than has been presented by the Minister Without Portfolio responsible for native affairs. In fact the point of view that has been expressed to me is that basically if the caveat were to be filed, it would relate primarily to Crown land and would have an interest only in developments which take place from the day the caveat initially was tried to be filed.

I look forward with a great deal of interest to comments by the Attorney General in this particular area, because I think it's important that all of us in this Assembly have that matter cleared up. I think it's reasonable that either in second reading of this legislation or in committee, the Attorney General would raise and clear that particular issue.

As my colleague from Clover Bar indicated, it's the intention of my colleagues and me to vote against this bill. We balance the issue like this: we reflect back on the period of time when the government presented its three choices to the group proceeding with the attempt to file the caveats. The government presented three choices. The group of headmen and chiefs chose to go the route they are now going. The government indicated: okay, this legal route will be open. From our point of view, in its clearest and simplest form this legislation changes the route the government laid open to the group attempting to file the caveat. That has to be one of the issues before the Assembly on this occasion.

I've heard basically only one argument from members who have spoken as to why it was necessary to move in this direction. That argument is: first of all, if the caveats are allowed to be filed, in the words of the minister of native affairs, they will tie up development in northern Alberta. Not being a lawyer, but having checked with people at the Land Titles Office, my understanding once again is that yes, this would be somewhat of an inconvenience. It would be cumbersome. It could be difficult. It could cause problems. No question about that. But it would not tie up development in northern Alberta; it wouldn't be a land freeze like we have around the cities of Calgary

and Edmonton. That's the best information I've been able to get, from people in the Land Titles Office itself. If the caveats were allowed to be filed, it wouldn't freeze development in northern Alberta.

The argument put forward by the minister of native affairs, if I copied his words down correctly — and I stand to be corrected — is that if the caveat was allowed to be filed and put in place, it would tie up development and drive a wedge between citizens of Alberta. I say to members of this Assembly, regardless of where we sit or what riding we represent: let us not think the legislation we're debating today is not driving a wedge between people of the province.

I didn't attend the meeting at Garneau United Church earlier this week. I found the comments by the Member for Edmonton Highlands interesting and revealing, but a bit disappointing. I recognize that we weren't asked to the meeting either. My colleague Dr. Buck attended the meeting. But I know the Attorney General, and all members in the House do. I'm sure if the Attorney General had gone to the group doing the organizing and said look, we think we could get a more balanced view here, I very much question whether those people who organized the meeting really would have said, no, we won't let you in the front door or the back door. These people who organized the meeting really aren't "skilled politicians", if you'll pardon the expression. Frankly they're pretty concerned people.

Some of the members can make faces at me and so on. I happen to know some of them. Yes, some of them belong to parties other than the one I belong to. But some of them are rather concerned people of the United Church of Canada, which I happen to be a member of. I consider them to be pretty genuine, earnest people too. They may not share my political point of view, but for the government and the Member for Edmonton Highlands to lament the fact that another point of view wasn't put forward — I think that could have been arranged if the desire really had been there.

In conclusion, I balance the thing on this basis: either we pass retroactive legislation and break the informal agreement that had been worked out — at least the informal choice that had been worked out and the native people had chosen to follow — or we go the route I would prefer, and that would be yes, take the chance and take some of the difficulties that will be involved by allowing the thing to be heard. My reading of what's happened in the settlement of other land claims where it hasn't been very extensive is that these would end up in negotiations between the government and the native people affected.

Maybe the government should go to the individuals who have filed the claims and say, look, we're prepared to hold this legislation until the fall session. Let's do some earnest negotiations between now and then and see if something can't be worked out. I'm not sure that would solve the problem, but I simply say that on balance I plan to vote against the legislation. Balancing the retroactive legislation as opposed to this idea that the caveat is going to tie up development in all of northern Alberta — I simply don't see that as the case. I don't see those as the alternatives. For that reason we're going to vote against the legislation.

MR. TAYLOR: Mr. Speaker, I want to say a word or two in connection with the bill. It seems to me that much more is being read into the bill than I can see. The bill is denying the right to file a caveat on non-titled land; and in my view, as I read it, "No caveat may be registered which affects land for which no certificate of title has been issued." I think that part is very definite; that if no title has been issued to land, a caveat cannot be filed against it.

However, another point comes to my mind. Where a caveat is filed on an area of land — whether it be an acre, a section, or a larger area — and some of that area happens to be titled, then I can see another legal battle looming in regard to that area. It would certainly be of concern to anybody who held title in an area like that. If there is still the right to file a caveat on titled land — which I can't see being interfered with at all — then those who already have their title in that area would not be affected by this particular bill unless, I say again, the caveat is filed against a whole parcel or area in which there is some untitled and some non-titled land.

The point that appeals to me mostly, though, is the importance people are placing on a caveat. A caveat has never really been that important to people. A caveat warns someone who wants to buy the land that somebody else has an interest in it. It doesn't stop them from buying the land. It doesn't interfere with the rights of the person to sell it if the other person is prepared to buy it with that caveat on it. I have questioned the value of caveats very greatly. I've always objected to caveats where the owner of the land has not been notified and given an opportunity to have his case heard before the caveat was filed. On occasion it has happened that the owner of the land is not even told that a caveat is going to be there until he gets notice that it has been registered against his land, sometimes unfairly and improperly. So I think this whole thing of caveats is being overemphasized. They are not that important.

I would be very much concerned if the legislation said that the native people could not go to court to have their case heard for land in which they have an interest, or land in which they think they have an interest. I think that is the important item. Nothing is stopping people of any isolated community from going to court and getting ownership of that land in a type of reserve or some other form.

I would object very strongly if any band was going to try to take title to the entire northern part of Alberta for which there are no titles issued. I think that's a ridiculous position. It wouldn't be in the interests of the people of this province to permit this. So, a caveat against thousands and thousands of acres of land just doesn't make sense to me. A case indicating the ownership of a group of people — whether they be Indian, Metis, whites, or otherwise — to an area in which they have lived for some time makes sense. I think it would have a fair opportunity to be granted in our courts.

I haven't seen anything on the part of the government of Alberta that would indicate it's going to try to take land away from any peoples in the north who are living on that land. Nothing has ever come to my desk or to my information that this is being done. So I think that's the important item: people's rights are going to be recognized, but not for the whole mass of land in the north.

Another thing bothers me somewhat. I'm not sure that Great Canadian Oil Sands or Syncrude have title to their land. I don't know for sure; I haven't had the opportunity to research it. But it seems to me they hold a lease. And when the operation is finished the land, with all ownership, reverts to the Crown. If that is so, a caveat on an area of land in which that land is located could very well take in Great Canadian Oil Sands, and would certainly interfere with development. Again, if somebody wants to invest another \$800 million or billion on another oil sands development in the north, and they find a caveat against it even though nobody is living in the area, certainly businessmen would be reluctant to invest that kind of money in that type of land. Again, that is affecting the interests of everybody in Alberta and in Canada.

In that connection, the hon. Member for Spirit River mentioned we should be flattered because Pierre Berton came to Alberta to speak about human rights. Personally, I think there's plenty of human rights in the east he could speak against without shoving his nose into our business. [interjections] The people of Alberta can handle their own affairs without interference from some arrogant radio man from Toronto. I resent him coming. I would wager — maybe I'm wrong — but I'd wager somebody paid his way. I would bet on it. [interjections] When he pays his own way out here, I might have some reason to listen to what he has to say.

Mr. Speaker, again I emphasize that I'm more concerned about the rights of those who are living in communities and have established some right to that land. I'm not concerned about those who want to claim the whole massive area in the north. That belongs to all the people of Alberta, and I'm not prepared to give up that right to any one particular group. It wouldn't make sense, and it wouldn't be logical to me. I have difficulty following the arguments of those who want that to take place.

In regard to negotiations, I agree with the hon. Leader of the Opposition. I think negotiations should proceed with the people — Indian, Metis, or otherwise — who have established some right in the north. Where they've lived in a community for some time, where they've established some right, let's negotiate and give them their rights so they don't have to go to court, waste a lot of money, hire a lot of lawyers, and get into a lot of other expensive operations. I would hope that could be done. But if that doesn't take place, there's nothing to bar any individual or group in this or any other province from taking its case to court. That's where the decision is made. A caveat is not a decision.

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

HON. MEMBERS: Agreed.

MR. FOSTER: Mr. Speaker, I very much appreciate — as I'm sure all members of the House do — the contribution made to this debate; very excellent contribution, I think, on both sides of the House. It's not my intention to dwell on the matter long or in detail. But I would like to make two or three responses, particularly where I think there may be conclusions inaccurate in law.

At the outset, let me say that the figure of 5,000

titles is fairly accurate. But that's the titled land, that's the patented land. What you do not see are the thousands upon thousands upon thousands — and my advice is upwards of 20,000 — of interests in that land that are not part of the land titles system; for example, Crown leases, and the like. Homestead properties have been referred to. They are not there. A caveat filed in this situation would certainly affect all those.

I did not intend to interfere in the debate by the hon. Member for Clover Bar, but I was particularly concerned in trying to understand exactly why, on behalf of the official opposition, he felt the way he did. Let me say at the outset that any time anyone expresses the concern that civil liberties may be in jeopardy, I agree we should all listen and listen carefully. I would hope that interested members of the public and the media — most of whom have now left — might read the debate in this Assembly, and very carefully consider the remarks that have been made here by way of explanation.

The hon. Member for Clover Bar said his concern was that we were taking away the rights to advance the legal claim for their entitlement to land. That is not accurate. A caveat in this situation is not a conditioned precedent to the initiative by this group to determine whether or not, at law, they are entitled to land. If that is the basis upon which the opposition have formulated their response to this, I suggest to them that that conclusion is inaccurate and not valid. I have been trying to say that in this Assembly on I don't know how many occasions.

There seems to be some suggestion that the legislation takes away something this group already has — I'm talking now about a native group. Both the Member for Clover Bar and the Member for Spirit River-Fairview referred to the filing of the caveat and the filed caveat. The caveat has not been filed. That is the issue before the court — the 'fileability' of the caveat. No caveat on this issue is filed in Alberta. There seems to be an attitude, that something is filed and this legislation will take it away. That is not the issue. The group came forward and wanted to file the caveat. The registrar of the Land Titles Office felt that that was not a 'fileable' or registrable document. It went to court at the initiative of the group claiming the interest, not at the initiative of the Crown in that sense. And there it is.

The hon. Member for Clover Bar went on to quote a document I couldn't identify: a caveat is "important" in negotiating land claims, "but not crucial". That's accurate perhaps; it's accurate in this context. But it's a fundamental contradiction to the premise upon which he based his entire argument. Therefore I don't understand how the opposition take the view they do.

I think the Member for Spirit River-Fairview had the same misunderstanding about the filing of the caveat. He was concerned, and quite properly so, about the rights of homesteaders. The simple fact is that homestead arrangements are not now filed in the land titles system in the same way the title to your house or mine may be filed there, by way of documenting a transfer or a duplicate certificate of title available.

But 141 anticipates that the registrar shall keep a book and record those who claim an interest where "no title has yet issued". Those are the precise words

of 141, clearly anticipating that the issuance of title is in process, as it is under the homestead application. I don't share the concern of the Member for Spirit River-Fairview about the rights of homesteaders and lenders. Their situation will be no worse. Indeed, it may even be improved, because one of the options open to the Crown is to issue a title in the name of the Crown. That title then becomes part of the land titles system, and a caveat may then be filed against that title in the traditional sense. That has not been done in the overwhelming majority of cases. But that possibility is always there. That could be done. So I don't share the concern that homesteaders may somehow lose from this initiative.

The Member for Spirit River-Fairview seemed to suggest that the Crown can conveniently delay matters before the courts. Without debating the point, I just want to make this observation. There are other claims in this province having to do with entitlement to land — legal claims — where we are paying the bill, where the Crown has been waiting for three years for the other side to initiate what they told us three years ago they wanted to initiate. So let me simply say to the Member for Spirit River-Fairview that the tactic of delay is not a tactic open only to governments and corporations. That tactic may indeed be employed by anyone before the courts.

The hon. Leader of the Opposition was asking about the effect of filing this caveat. I again want to avoid arguing the case [which is] in the court. But let me suggest this analogy. If you own a piece of land and want to sell it to me, but you have on the title to your land a caveat wherein the Member for Spirit River-Fairview claims to own your house, then I for one will be extremely reluctant to negotiate a purchase with you. It's as simple as that. If this caveat were filed, or any caveat were filed on any land where the caveator claimed an ownership interest in that land, then I suggest to you that the person who owns that land — whether it is the Crown or an individual citizen — may have great difficulty in negotiating the sale of that land, the lease of that land, or otherwise the development of that property. That kind of uncertainty will exist in the minds of those who have to deal with persons with such a caveat.

The caveat is simply a claim of ownership to the property which I may hold if I happen to be the resident of some community where the caveat is filed. I suggest that you do not have to apply too much imagination to that circumstance to imagine the kind of uncertainty and difficulty that would exist throughout the region, were that to occur. Moreover, if the principle were to be established in other parts

of this province, it might be chaotic indeed.

I don't quite understand why I should have initiated some participation in the meeting last week at Garneau church. I know the civil liberties group from Ontario were in part behind it, and other groups as well. Frankly I was in correspondence with the civil liberties group. They had indicated to me they had a brief to send to me on Bill 29. I haven't got the brief yet. I'm going to get it, certainly. But I assume that while they're corresponding with me upon the matter of meetings and briefs, I can take them at their word — and I know I can — that I'll get the brief. But I don't know that it falls to me to initiate the responsibility for attending some meeting at Garneau church.

I think I indicated in my opening remarks, Mr. Speaker, that in fact there had been opening discussion or contact between representatives of the particular group we're discussing and the Crown. That is under way. And that's fine, if that's their choice. As I've said before, and my honorable colleague the minister responsible for native affairs has confirmed, that initiative will meet the welcome response of the government.

Mr. Speaker, I do not anticipate that anything useful would be served by holding Bill 29 on the Order Paper. Because I fully expect that the discussions that have now been referred to and encouraged may go on for some time. Indeed, it may take some period of time before the matter of entitlement to land may be resolved, recognizing the various complications that have already been referred to in this House, the participation by the federal government and other people. I just think it's unrealistic to assume that with a legal proceeding pending, the legislation should continue to stand until the fall, because that really doesn't solve the problem.

Mr. Speaker, I'm anticipating another lengthy and, I hope, informative discussion at committee stage.

[Motion carried; Bill 29 read a second time]

MR. FOSTER: Mr. Speaker, I move we call it 1 o'clock.

MR. SPEAKER: Having heard the motion by the hon. acting Government House Leader, do you all agree?

HON. MEMBERS: Agreed.

MR. SPEAKER: The Assembly stands adjourned until Monday afternoon at half past 2.

[The House adjourned at 12:59 p.m.]

