LEGISLATIVE ASSEMBLY OF ALBERTA

Title: **Monday, May 15, 1978 2:30 p.m.**

[The House met at 2:30 p.m.]

PRAYERS

[Mr. Speaker in the Chair]

head: TABLING RETURNS AND REPORTS

MR. DOWLING: Mr.Speaker, I would like to table the response to Motion for a Return No 135 and to file with the Legislature Library a copy of the recently completed study of farm equipment markets in the United States and western Canada. Copies will be made available to all members.

MR. FOSTER: Mr.Speaker, I'd like to table the annual report of the Department of the Attorney General for the year ended March 31, 1977.

MR. LEITCH: Mr.Speaker, I wish to table the Provincial Treasurer's report, required by Section 34 of The Alberta Municipal Financing Corporation Act. Attached to it are copies of the 1977 annual report of the Alberta Municipal Financing Corporation.

head: INTRODUCTION OF SPECIAL GUESTS

DR. HORNER: Mr. Speaker, some five years ago, I believe, the Canadian Broadcasting Corporation initiated a program called *Reach for the Top* amongst the high schools in Canada. It's with a great deal of pride that I let you and the members of the Assembly know that in three of those years the Lorne Jenken high school in Barrhead has won the provincial championship, and on one occasion has won the national championship. The particular team I would like to introduce to the Legislature this afternoon has again won the provincial championship, by defeating the Henry Wise Wood high school from Calgary Glenmore.

These young people and their coach will be representing Alberta at the national finals in Charlottetown, Prince Edward Island, in July. I want to assure all hon. members that they're going to make very admirable ambassadors from our province of Alberta. They are Ralph Baughman, Bruce Wallace, Jeff Toivonen. Matt Walden, Jackie Saide as their alternate, and their coach Larry Melnychuk. I'd like them to rise and be recognized by the Legislature.

MR. LEITCH: Mr.Speaker, I'm very pleased to be able to introduce to you and to the members of the Legislative Assembly 90 grade 9 students from the Nickel junior high school in the Calgary Egmont constituency. They are accompanied by Joan Engel, Laurie Harris, Heather Campbell, Bob Whyte, and Gary Ryan. They're seated in both the members and the public galleries. I'd ask them to rise and receive the welcome of the Assembly.

MRS. CHICHAK: Mr. Speaker, it gives me great pleasure again today to introduce to you and to the members of the Assembly some 25 adults from the Grant MacEwan college, Cromdale campus, who are involved in the adult development program. They are attending the Legislature today with their teacher and instructor, Mr. Don Whalen.

I had the opportunity of meeting with them for almost an hour earlier this afternoon, at which time I think they posed some very direct and involved questions I was very pleased to have the opportunity to have the dialogue with them. It's probably one of the exercises I most often look forward to in my role as an MLA: communication and the exchange of question and answer and information.

I was very pleased to have the interlude of discussion with them, and I'm happy to have them here this afternoon. I would ask them now to rise and receive the welcome of the Assembly.

head: MINISTERIAL STATEMENTS

Treasury

MR. LEITCH: Mr. Speaker, on October 19, 1977, I filed in the Assembly a draft of a proposed code of conduct and ethics. At that time I said:

> I'm making public the proposed draft because I appreciate there are arguments of considerable weight to support in several areas different policies and standards from those proposed in the code. Before finalizing it, I would like to have the benefit of the views of persons who hold different opinions, whether they be members of this Assembly or not.

Thereafter, Mr. Speaker, I received a significant number of comments on the draft code. All the comments and suggestions were carefully considered by my colleagues and me. We very much appreciate the interest that led to the making of those comments and the research and thought that went into them. Our review of those comments did lead to a number of changes in the code, which I now wish to file for the information of members of the Assembly.

It is the government's intention that the code become effective as of the first day of July 1978. However, we appreciate that in some instances — for example, for persons who might now hold a prohibited political office — it would be unfair to require them to cease holding such office prior to the expiration of its normal term, and the code will be administered with that in mind.

head: ORAL QUESTION PERIOD

Censorship Board

MR. CLARK: Mr. Speaker, my first question is directed to the Minister of Culture. It follows the comments made by the Solicitor General in the House last Friday, when he suggested that we consider "the voices in our society who, in the name of permissiveness, have undermined the basic ethics of our culture."

My question to the minister responsible for Culture is simply this: is it the position of the minister that

this permissive action the Solicitor General referred to on Friday really has undermined the basic ethics of our culture?

MR. SPEAKER: With great respect to the hon. Leader of the Opposition, it would seem that he is seeking an out-and-out opinion. This is a matter which is endlessly debatable, in addition to which, as is set out in *Beauchesne,* a minister may not be asked for his opinion in the question period. The question period is designed for the soliciting of government policy but not of the individual opinions of ministers.

MR. CLARK: Then I'll put the question this way, Mr. Speaker. Does the Minister of Culture have any studies or surveys the government has carried out which would substantiate the comments made by the Solicitor General last Friday on this question of the undermining of the basic ethics of our culture?

MR. SCHMID: Mr. Speaker, I think the interpretation of the word "culture" in this context is the culture of a people rather than culture as responding, for instance, to the performing arts or in a similiar manner. The only one who would really be involved, I think, would be the minister responsible for the censor board. There, of course, the chairman of the censor board tries first of all to classify and then accept or reject movies which are not within the standards of the community; in this case, of course, "community" representing the province of Alberta.

MR. CLARK: Mr. Speaker, to the minister, and I remind him of the recommendations on censorship of the select committee appointed by the previous Legislature: what action does the government plan to take on the recommendations made by the committee, which I believe was chaired by the Member for St. Albert?

MR. SCHMID: Mr. Speaker, I am delighted that the amendments to The Historical Resources Act have been approved so we can further accomplish the preservation of our historic artifacts and resources. Of course there are certain priorities, and in this case this was my higher priority rather than the amendments to The Amusements Act which would possibly accomplish certain recommendations of the report by our MLA Mr. Ernie Jamison.

MR. CLARK: Mr. Speaker, a supplementary question to the minister, in light of the comments made Friday in the Legislature by the Solicitor General about the undermining of the basic ethics of our culture and his reference to a certain movie now showing in the city of Edmonton. My question to the Minister of Culture, who is also responsible for the censorship board, is this: does the government plan to bring in any legislation dealing with this question of censorship as a result of the committee chaired by the Member for St. Albert or as a result of the concerns expressed in this Assembly by the Solicitor General?

MR. SCHMID: Mr. Speaker, legislation in this regard is always under consideration. When it will be brought to the House I am unable to state.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. minister. In light of the concerns expressed by the hon. Solicitor General last Friday, has any consideration been given or has any discussion taken place between the minister and the censorship board with respect to toughening the censorship regulations in the province?

MR. SCHMID: Mr. Speaker, the guidelines for the chairman of the censorship board are still to classify and reject or accept movies according to community standards. Then, of course, if there are any questions of morality or pornography this would be under the Criminal Code. Charges would be laid if such an occasion occurred; and if not, of course it would then be shown.

MR. SPEAKER: As I recall the question, the hon. minister was asked whether he had had any discussions with the censorship board.

MR. SCHMID: No.

MR. NOTLEY: That's wise.

Transportation Week

MR. APPLEBY: Mr. Speaker, this question is addressed to the Minister of Transportation. I understand that National Transportation Week will commence May 28. In view of the fact that this province has always actively participated in that event, I wonder if they are going to continue the same type of involvement this year.

DR. HORNER: Mr. Speaker, I would remind hon. members that it is National Transportation Week. Because in a country like Canada transportation is a very key commodity or resource that's required, we think Transportation Week is going to be very important across the country. As a matter of fact, this year Alberta is the host province for the national dinner, which will be held in Calgary on Wednesday, May 31.

Automobile Safety

MR. STROMBERG: Mr. Speaker, a supplementary to the minister. I believe last week was Child Safety Week across Canada, and I wonder if his department had any input into that week, especially as it pertains to children riding in automobiles and to the use of children's safety harness in automobiles.

DR. HORNER: Mr. Speaker, that's a continuing portion of transportation safety. As all hon. members are aware, I'm sure, my traffic safety division has been very active indeed with a variety of programs in the schools trying to start to educate young people not only relative to the use of the seat belt but to make sure that things in cars, including children, are buckled down so that their safety is enhanced when they are in any kind of accident.

In addition to that, of course, Mr. Speaker, a few days ago I tabled in the Legislature the seminars where we've been dealing with the school bus drivers in Alberta. I want to reiterate to the driving public that when they see those flashing red lights on a

school bus, that means they have to stop. If they don't stop, they will be punished.

Preventive Social Services

MR. SHABEN: Mr. Speaker, a question to the Minister of Social Services and Community Health. Would the minister advise the members of the Assembly if the PSS funding to isolated communities in northern Alberta has been reduced this year?

MISS HUNLEY: Not to my knowledge, Mr. Speaker. I would need to check on the specifics. Occasionally PSS puts forward programs which don't fit, or perhaps the budget that a PSS board wishes to obtain does not fit within the budgetary guidelines. I believe that the funds would not be reduced, but they may have asked for more than the budget allocation would permit.

MR. SHABEN: A supplementary question to the minister. In the preventive social services program available to the isolated communities, is there a community requirement of contributing 20 per cent, as in other PSS programs throughout the province?

MISS HUNLEY: No, Mr. Speaker. In that particular instance, we have waived the requirement because of the very nature of the isolated communities, in which there is really no established government from which the 20 per cent could flow. So the Department of Social Services and Community Health has been doing 100 per cent funding in this instance.

Grain Handling

MR. MANDEVILLE: Thank you, Mr. Speaker. My question is to the hon. Deputy Premier and Minister of Transportation. Could the minister bring the Assembly up to date regarding the development of the consortium to build a major grain-handling facility at Prince Rupert?

DR. HORNER: Mr. Speaker, as the hon. member is perhaps aware, we've continued to have some discussions with the various grain-handling companies operating in Alberta to encourage them to go forward with the formation of that facility. A proposition was placed before one of those major grain-handlers, and they made the decision that they wanted to see whether or not they could do it on their own, which of course is fine with us. As I think I mentioned a week ago in the House, our primary objective was to get the facility developed.

I can't report any further progress, other than that we intend to visit Prince Rupert personally this coming weekend and have a look at the facilities and the various sites that have been suggested.

MR. MANDEVILLE: Mr. Speaker, a supplementary question. Could the minister indicate whether the government has made any commitments to Alberta Wheat Pool with regard to using heritage savings trust fund money for an equity participation in the project?

DR. HORNER: In certain circumstances there would be the suggestion that we might invest funds from the heritage fund. Those circumstances relate to the involvement of companies doing business in Alberta as opposed to companies doing business generally in western Canada.

MR. MANDEVILLE: A supplementary question, Mr. Speaker. Could the minister indicate whether he's contacted other provinces with regard to putting equity into the facility at Prince Rupert?

DR. HORNER: Mr. Speaker, we've had some general discussions with the other two western governments involved. There was no indication on their parts that they would want any equity involvement at all. The province of British Columbia had not closed its mind to being a minority equity holder if a certain site were used as opposed to other sites. That has to do with the argument between Casey Point and Ridley Island.

MR. MANDEVILLE: A supplementary question, Mr. Speaker. Could the minister indicate whether the government or the minister has had any negotiations with Cargill in regard to investing in the Prince Rupert project?

DR. HORNER: Mr. Speaker, as I initiated earlier I've had discussions with all grain companies operating in Alberta to encourage them, as a consortium or otherwise, to get a facility built at Prince Rupert. Let me emphasize again, every additional bushel that goes through Rupert as opposed to the Seaway is 25 cents extra income to the farmers of western Canada. The target was 100 million bushels; that's $25 million a year in additional income. I think it's important enough that this government should be involved actively as a catalyst to see that the thing is built.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. minister. Has the government closed the door on either equity or debt investment in a consortium where other companies doing business in other provinces are involved, or is that still under review?

DR. HORNER: Mr. Speaker, that matter is under review. I have not had a proposal of any kind for that kind of consortium. Until such time as a proposal has been put before us, obviously we can't make a judgment on it.

MR. CLARK: Mr. Speaker, one further supplementary question. Has the Deputy Premier indicated to the group, including the Alberta Wheat Pool and others who are trying to pull together a consortium as I understand it, a time frame within which they should conclude their deliberations?

DR. HORNER: Well, Mr. Speaker, I think I said a week ago in the Legislature that if this is as positive toward adding income to the farmers of western Canada as we and The Canadian Wheat Board say it is, surely every month's delay is a delay in getting that additional income to the farmers of western Canada. We would like the consortium to move quickly, to tell us whether or not they're going to go ahead, so we can take some other avenues that may be open to us.

MR. CLARK: Mr. Speaker, just to follow that along, to the Deputy Premier. Has a time frame been agreed

upon between the consortium and the Deputy Premier that a month from now they'll either be in a position of yes, we can put the consortium together, or no, the government had better look to some other avenue?

DR. HORNER: Mr. Speaker, I had hoped that within that month's time I would receive some word from the Pool and the people who are trying to head the consortium. I don't think there's anything definitive about it. It was my suggestion that I'd like to hear from them within the month because of the importance of the matter. But there's certainly no agreement that they have to report to me, because they don't.

Electric Power Development

MR. NOTLEY. Thank you, Mr. Speaker. I'd like to direct this question to the hon. Premier. It flows from reports this past weekend that Calgary Power is apparently hesitant about proceeding with its major feasibility study on the Mountain Rapids sites on the Slave River. Among the reasons it cites is some concern about the possibility of a western power grid. Is it the intention of the government to table a position paper in the Legislature evaluating the various options for power development, including the results of the six-month study that the Premier announced on April 17, I believe, concerning a western power grid?

MR. LOUGHEED: Mr. Speaker, I'd refer that question to the Minister of Utilities and Telephones.

DR. WARRACK: Mr. Speaker, I think at this point in time there would be no reason to change the normal planning process on any of the alternatives as far as future power development in Alberta is concerned. Certainly the work is proceeding, and there'll be discussions in the near future with respect to the excellent idea, in my view, of the western power grid. At the same time the question of alternative developments, be they coal or hydro, needs to proceed in the normal course of events, and this work will be ongoing.

MR. NOTLEY: Mr. Speaker, a supplementary question to either the Minister of Utilities and Telephones or the Minister of the Environment. Is either minister able to advise the Assembly where things now stand on the $6.5 million study on Mountain Rapids? Is there any problem there, or has Calgary Power indicated it would like some assistance by the Alberta government, or governments including the Northwest Territories, Saskatchewan, and the federal government, to complete the study?

DR. WARRACK: Mr. Speaker, the assessment so far has indicated that the time frame and magnitude of cost of such a feasibility study would be in the order of some $6.5 million and would take three to four years to complete. That study has not been initiated at this point. However, it's fair to say that that's an important possibility for future electric power development in Alberta, and this may be done in the coming months.

MR. NOTLEY: Mr. Speaker, a supplementary question to the Minister of Utilities and Telephones. Is it the position of the government of Alberta at this stage that in fact the study will go ahead? Is it still a possibility that that will be up to the power company, or will the government consider partial funding?

DR. WARRACK: Mr: Speaker, I answered part of that a moment ago when I indicated that that work may proceed. That's a decision to be made. It is a major decision, because it is, after all, a study that would involve something in the order of $6.5 million. A decision about that needs to be made and will.

The other part of the question is whether it ought to be solely the responsibility of the potential developer or, alternatively, the responsibility of the government or governments involved to develop those necessary studies to know whether it's a good idea for such a power project to proceed at this time. So that's a second part of the set of decisions that would be needed.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. minister. Has a time frame been established by the government of Alberta with respect to being able to make a decision both on the question of whether the study would proceed and, secondly, on the question of cost sharing if cost sharing were to take place?

DR. WARRACK: Mr. Speaker, the only time frame is that as soon as we're finished here I'll have some time to work on that matter and proceed to see what it looks like.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. Minister of the Environment. In light of the Dunvegan Dam study, which indicated that any further consideration of Dunvegan would have to await the study on the Slave River project, the Mountain Rapids project, is it still the position of the government of Alberta that the Mountain Rapids study must precede any future decision on Dunvegan?

MR. RUSSELL: No, I think that's the kind of thing that should be reviewed from time to time, Mr. Speaker: whether the low head or medium head is still the only one under consideration, and how it might tie into any potential on the Slave River.

MR. NOTLEY: Mr. Speaker, a final supplementary question to the hon. Minister of Utilities and Telephones. Has either the electrical planning council or the government of Alberta given any consideration to nuclear power in planning for the future power-generation requirements in the province?

DR. WARRACK: Yes, Mr. Speaker, some consideration has been given by the Electric Utility Planning Council to the possibilities of nuclear power development in the future. The basic configuration of the assessment is this: presuming that any nuclear power development in Alberta would be done with the Canadian technology, namely the Candu reactor, which is based on a 600 megawatt designed size, that is still much too large for Alberta, for reliability reasons. So the date when nuclear power might be a

practical possibility is 12 to 15 years off. That is also about the lead time that would be necessary on such a project if it were to be undertaken. So I think it's timely that some attention be given to that matter. Those sorts of initial discussions, I know, have taken place within the Electric Utility Planning Council.

MR. APPLEBY: A supplementary question, Mr. Speaker, to the Minister of Utilities and Telephones. At one time some preliminary studies were done regarding hydro sites on the Athabasca River starting at the town of Smith and to Fort McMurray. I wonder if these have been discarded, or will some further studies perhaps be done as to their possibilities?

DR. WARRACK: Mr. Speaker, I'm afraid I don't know the answer to that question. It will be necessary for me to inquire and report to the hon. member.

Public Waterways

MR. GHITTER: Mr. Speaker, I'd like to ask a rural question today.

SOME HON. MEMBERS: Oh, oh.

MR. GHITTER. I would like to ask the Minister Without Portfolio responsible for Public Lands whether it is the policy of the government of Alberta to declare large sloughs on farmers' properties as public waterways.

MR. SCHMIDT: Mr. Speaker, Section 4 of The Public Lands Act states that the bed and the shore of all bodies of water are vested in the name of the Crown. [interjections]

MR. GHITTER: A supplementary to the Minister of the Environment, Mr. Speaker, and this is an unwritten question. I would like to ask whether or not the government has received submissions from a farmer in the Carstairs area with respect to the desire of the municipality to declare a large slough a public waterway. If so, what does the minister intend to do about it?

MR. RUSSELL: Yes, Mr. Speaker, I'm familiar with that case. The legislation is there, and of course as the sloughs rise and fall it's rather tricky grabbing hold of where the property line is.

MR. KIDD: Mr. Speaker . . .

MR. GHITTER: Sorry, I'm not finished with him, Mr. Speaker. Again the Minister of the Environment is very elusive. All I wanted to know is whether they intend to do anything about the farmer from Carstairs. Would the Minister of the Environment advise the House in this particular situation whether or not they intend to declare the farmer's slough a public waterway?

MR. RUSSELL: Mr. Speaker, I don't think it's a matter of our declaring it. The act states what it is, and that legislation has been in effect for several years. There is a real problem in some cases where land acquisition is involved. And I was being serious in tying down the property line where the waterlines fluctuate in these bodies of water in excess of 10 acres in size.

The case the hon. member is referring to deals with sewage treatment facilities, part of the province that may be used as part of a lagoon system. That's the nature of the problem. We're trying to work it out with the parties involved.

MR. GHITTER: A supplementary, Mr. Speaker, to the Minister of Municipal Affairs. In situations where farmers' sloughs have been declared or are in fact public waterways, is it the policy of the government of Alberta to reimburse the farmers for the municipal taxes they have paid, on the basis that these lands are apparently no longer owned by the farmer?

MR. JOHNSTON: Mr. Speaker, if the land were not owned by the farmer, he wouldn't pay any tax.

MR. GHITTER: Mr. Speaker, on a point of order, that is not the situation at all. The farmer is paying the tax. I'm asking the minister if he'll reimburse the farmer.

MR. JOHNSTON: Mr. Speaker, if the title is in the farmer's name, the decrease in the value of that farmland is reflected in the assessment. If he has title to it, then part of that would be on the assessment roll and he would pay an appropriate fee. If title is taken from him, however, of course he would not pay any tax.

MR. GHITTER: A final supplementary, Mr. Speaker. I'm wondering if the hon. minister would take under advisement a situation where the title remains in the farmer's name, where the Crown is declaring it to be a public waterway, and where the farmer is still paying taxes, which is clearly inequitable.

MR. JOHNSTON: Yes, Mr. Speaker.

Water Management

MR. R. SPEAKER: Mr. Speaker, my question is to the Minister of the Environment. It's with regard to the water Apportionment Agreement between Alberta, Saskatchewan, and Manitoba. Has the minister had any discussions, or is there consideration in discussions with the other provinces, with regard to Saskatchewan and Manitoba paying a portion of any capital structure being placed on any of the major rivers for water flow control?

MR. RUSSELL: No, we haven't had discussions with other provinces, Mr. Speaker. But we have inquired of the federal government with respect to that.

MR. R. SPEAKER: Mr. Speaker, a supplementary to the minister. Is the minister considering having those discussions with the other provinces?

MR. RUSSELL: Well, the very nature of topics such as apportionment and interprovincial agreements is ongoing through the Prairie Provinces Water Board. That particular item has not yet come up at the political level. I will be meeting with the other ministers very shortly, early in June. The matter may or may not arise. I think the quantity of water is the most

important thing insofar as interprovincial regulation is concerned.

MR. R. SPEAKER: Mr. Speaker, to the minister. On the basis that water flow control structures established in Alberta will enable not only Alberta but the other provinces to have the amount of water they require, under those ground rules would consideration be given by Alberta to requesting moneys from Saskatchewan and Manitoba to pay their portion of the capital cost? Would that be the intent of the minister, or is that not the present policy of the government?

MR. RUSSELL: No, Mr. Speaker, that's not the intent. Our obligation is to provide a certain minimum flow on any given day of the year so that the neighbor downstream can do as he pleases with it. Now, if there's an indirect benefit as a result of flow regulation, I think that's very nice. But cost sharing is a matter that has been broached by the federal government and one we're pursuing with them.

MR. R. SPEAKER: Mr. Speaker, a final supplementary to the minister. Could the minister indicate whether the decision relative to water flow control structures on the Oldman is on target at the present time?

MR. RUSSELL: Yes, it is, Mr. Speaker. We're still working within a two-week period to the schedule we outlined at the meeting in Picture Butte last summer.

Chamber Ceiling

MR. WOLSTENHOLME: Mr. Speaker, I'm not positive if this question should be put to you or to the Minister of Housing and Public Works. While I'm confident the roof isn't about to fall in on this government, I'd like to know about the condition of the ceiling in this Chamber.

MR. SPEAKER: For the reassurance of hon. members, I would like to say that the remainder of the ceiling is secure. [interjections] There was a loose panel. It's been removed, and we'll be attending to it after the House adjourns.

Bow River-Airdrie Water Line

MR. KIDD: Thank you, Mr. Speaker. My question is to the hon. Minister of Housing and Public Works. In view of the major industrial development proposed in the vicinity of Balzac, has the minister or his department made any studies regarding the possibility of increasing the amount of water which can be delivered through the Bow River-Airdrie water line? If he has, would the minister give an estimate of the cost of that increased flow?

MR. CHAMBERS: Mr. Speaker, when the hon. member mentions water, I'm not so sure it should be directed to me. Recognizing that Balzac is a very important community, though, I'm always interested in what goes on around there. But the question should be more appropriately directed perhaps to the Minister of the Environment.

MR. KIDD: Let me then direct it to the Minister of the Environment.

MR. RUSSELL: Mr. Speaker, that part of the water line the hon. member refers to has been transferred to the Department of Housing and Public Works for administrative purposes. It is actually physically a separate structure to the Red Deer regional water line and was carried out as a Public Works project.

MR. KIDD: The water is flowing faster than the ball bouncing across this table.

Prison Incidents

MR. CLARK: Mr. Speaker, my question is to the Solicitor General. It deals with the operation of institutions under the control of the Solicitor General. First of all, is the minister in a position to indicate what investigation will take place with regard to the unfortunate circumstance surrounding the death at the Fort Saskatchewan penitentiary this weekend?

MR. FARRAN: Yes, Mr. Speaker. There will be a routine investigation, as there is in all these cases. In this particular case the inmate was checked 25 minutes before the body was discovered. The admission clinical notes signed by the psychiatrist had shown no indication of suicidal or other homicidal tendencies. The regrettable incident is one that sometimes happens. I'm afraid a check every half hour is about as much as one can possibly expect in a correctional institution. He had been segregated from the main prison population, since he'd been charged with a sexual offence.

MR. CLARK: Mr. Speaker, a supplementary question to either the Solicitor General or the Attorney General. After the internal investigation is finished, will there be an inquiry as to the circumstances leading up to the death?

MR. FOSTER: Mr. Speaker, I'm quite sure the medical examiner's office, upon reviewing this matter, will call for an inquiry, since the death occurred in a provincial facility.

MR. CLARK: Mr. Speaker, to the Solicitor General. Was the Solicitor General advised by the family that both the wife and a member of the Edmonton city police requested that this individual get psychiatric treatment on April 7, the day after the individual was arrested and the charges laid?

MR. FARRAN: Mr. Speaker, I was not advised, although I see in the report that he was committed to Alberta Hospital as a result of information laid by the wife on April 7. The inmate was awaiting trial, and he was checked by two psychiatrists who said they felt he was not certifiable and could only be held, in any case, under an order of apprehension for 24 hours. This was something that was entered during the course of the trial, and was really outside the orbit of my department.

MR. CLARK: Mr. Speaker, to either the Solicitor General or the Attorney General. Would either of the hon. gentlemen be prepared to take on the responsi-

bility of having someone outside the two departments have a serious look at the recommendations courts make with regard to the confinement of prisoners, and then ascertain whether in fact those recommendations are followed through either by the Attorney General's Department or, more likely, in the terms of the Solicitor General's Department, because they have the responsibility for confinement of prisoners once they're sentenced? I raise the question because of the concern about recommendations made by the court. Are those recommendations then followed through in the rehabilitation process?

MR. FARRAN: Mr. Speaker, certainly these questions will be raised during the internal inquiry. But the medical examination report showed that as seen by the psychiatrist on April 11 the inmate was not psychotic, and no medication was prescribed.

MR. CLARK: Mr. Speaker, is the Solicitor General prepared to have an investigation done from outside his department, to determine whether the recommendations of the courts which are made on sentencing individuals are really being followed? That's the question I pose to the Solicitor General. Is he prepared to set up such an inquiry by someone outside the department?

MR. FARRAN: Mr. Speaker, I just don't see what this has to do with this particular case. There was no recommendation by the court or by two psychiatrists that any psychiatric treatment should be given. Otherwise the inmate presumably would have been in the forensic facilities at Alberta Hospital.

MR. CLARK: Mr. Speaker, the question deals with both the situation today and the situation we discussed in the House last Friday. It deals specifically with: is the Solicitor General's department following up the recommendations which are made by the court upon sentencing? That's why I think it's important there be an investigation done from outside the Solicitor General's Department rather than another internal investigation.

MR. FARRAN: Mr. Speaker, I again get the insinuation that the hon. member finds something wrong with my department. I'm ready to investigate until the cows come home if there is some sort of indication that something is wrong. But I just don't understand the continued thrust of the hon. member's questioning.

On Friday, for instance, some allegations were made which were just not true: that the individual in the case was not discovered until late in the day or something. He was aroused at 6:30 for the routine morning exercise like the rest of the inmates, reported sick, and then didn't come to the staff with his story until 8 in the evening.

MR. CLARK: Mr. Speaker, to the Solicitor General then, and this deals with the operation of agencies in the Solicitor General's Department. Would the Solicitor General be prepared to indicate to the Assembly what the situation is with regard to a recent incident at the Nojack prison camp? Would the Solicitor General like to enlighten the members of the Assembly what's happened there?

Well, check the department and tell us tomorrow.

MR. FARRAN: I know nothing about it except that we had one escape from that particular prison camp. I know of no other incident.

PWA Aircraft Safety

MR. NOTLEY: Mr. Speaker, I'd like to ask the hon. Minister of Transportation and Deputy Premier whether he can advise the Assembly if Pacific Western Airlines has contacted Boeing aircraft corporation in light of the statement made by the president of the airline pilots' association with respect to the thrust reversers on 737 jets that the airline owns.

DR. HORNER: Mr. Speaker, that may be a very important technical question relative to the inquiry that's going on, but surely we should await the outcome of the coroner's inquest and the full investigation by the federal Ministry of Transport officials. I am aware that in the meantime the management have informed me through the chairman of the board that they have naturally been in contact with Boeing, because they have some responsibility in these matters.

MR. NOTLEY: Mr. Speaker, a supplementary question then, quite apart from the current coroner's inquest. Has PWA been able at this stage to make the mechanical adjustments to the thrust reversers so in fact they meet the safety requirements I believe they do in the States?

DR. HORNER: Mr. Speaker, I am informed that insofar as safety matters are concerned on the 737s that are being flown by Pacific Western Airlines, they meet all those requirements like any other operating air line.

Irrigation Water Supplies

MR. MANDEVILLE: Thank you, Mr. Speaker. My question is to the hon. Minister of the Environment. Could the minister indicate whether he has carried out any assessment of the supply of water for irrigation in Alberta this year?

MR. RUSSELL: Yes, Mr. Speaker, we have a monitoring system. We receive and distribute weekly flow reports, weekly snow and runoff and moisture reports, as well as conditions of reservoir storage capacity. I can say at this time that it looks like a good year for the supply of irrigation water in all respects.

MR. MANDEVILLE: A supplementary question, Mr. Speaker. Could the minister indicate what steps have been taken or if he's establishing an overall water policy that would prevent recurrence of water shortages for irrigation that we had last year?

MR. RUSSELL: Mr. Speaker, the kind of thing that occurred last year is almost beyond control by a government. I think the way the department and the districts managed the system last year was very commendable. They didn't have to resort to water rationing, and they managed to keep enough water in the reservoirs. But if it isn't coming from the various

sources, of course they can't really increase the amount of water. I think the principles used in the management and storage of existing water which is made available to us are entirely satisfactory.

Prison Incidents
(continued)

MR. FARRAN: Mr. Speaker, I wonder if I could correct a response I made to the hon. Leader of the Opposition. I had forgotten that I did know about an incident at Nojack Forestry Camp, where two guards were fired because they were absent from their duty without leave. I'm afraid that was brought to my attention last week. I did know about it but had temporarily forgotten.

ORDERS OF THE DAY

head: GOVERNMENT BILLS AND ORDERS
(Second Reading)

Bill 41
The Alberta Hospitals
Amendment Act, 1978

MR. CRAWFORD: Mr. Speaker, there was only one other item I meant to deal with in closing debate on second reading of Bill 41. That is the argument that the legislation in some way denies access to the courts, in comparison with present situation. That argument carries with it the implication that at the present time access to the courts is generally available to aggrieved parties, presumably including the boards, in respect to hospital privileges.

Of course the legislation under consideration, Bill 41, specifically provides that in respect to matters of law an appeal to the courts may be made from a decision of the appeal tribunal. My suggestion is that that is the same situation which presently exists in respect to appeals to the courts from decisions of the hospital board.

The result would be that the appeal board really replaces the hospital board only in a very narrow sense and in a very limited area of its jurisdiction; that is, in respect to reappointment or revision relative to hospital privileges of individual doctors. It's already been noted that the bill does not purport to deal with the original appointments.

So the picture of the appeal board's operation that should be in hon. members' minds is that the hospital boards themselves now make these decisions. They are appealable to the courts in only a very limited way. As a result of Bill 41, that portion of the board's decision that relates to individual privileges for practitioners could now be appealed. In the same way, that decision of the appeal board could be appealed to the courts in matters of law.

Now, in what other areas might the parties want to go to court without reference to matters of law? Outside the area of the privilege itself and the right of the agency to deal with it on a final basis, be it the hospital board or the appeal board, there are the other areas of damages for, say, breach of contract between a practitioner and a hospital board. There's the area of defamation of character and presumably one or two procedural or jurisdictional areas. There may indeed be other areas that don't occur to me at the present time that could find their way to the courts, despite the apparent finality of the decision by the appeal board. I say again that that is the present situation.

In closing I wanted to place before the House the result of some of the legal research being done and simply quote a reference in a Supreme Court of Canada case, published in the Supreme Court's reports in 1959, page 655, which I think will interest hon. members. The case is an Ontario one, and the situation would be that the principles being applied in Alberta are the same. In that case the Supreme Court of Canada said:

> The Board of Trustees of a public hospital has authority to exclude qualified medical practitioners from the privileges of the hospital and from attending their patients therein. The contrary claim advanced by the plaintiffs, was unsupported by authority. There was no such absolute right as the one asserted. No common law or statutory origin was suggested and it could not come from any statutory or other recognition of professional status. The right of entry into the hospital and the right to use its facilities, in the exercise of the profession of these plaintiffs, must be found in the hospital authority for, apart from them, it has no independent existence.

That would appear to state very clearly that the hospital board itself is now in the final position from which there is no appeal to the courts, other than the exceptions I have already spoken of; stated simply, no appeal to the courts on the merits or the facts of the case, only on other matters. All that is happening is that given the occasions when the appeal board's decision may change in some way a decision made by the hospital board, the same area of approach to the courts would still remain after that.

[Motion carried; Bill 41 read a second time]

Bill 2
The Appropriation Act, 1978

MR. LEITCH: Mr. Speaker, I move second reading of Bill No. 2, The Appropriation Act, 1978.

[Motion carried; Bill 2 read a second time]

Bill 20
The Matrimonial Property Act

MR. FOSTER: Mr. Speaker, I just clipped on my "50-50 or Fight" badge in preparation for second reading of Bill 20, for two reasons: one, because I agree with the argument it presents; and secondly, because it's made by a relatively new business that's moved to the city of Red Deer to take advantage of new opportunities in my city.

Bill 20 is the product of a great deal of work following last fall's introduction of bills 102 and 103, and in fact incorporates much that was in that particular legislation. It's proposed that Bill 20 be passed at this spring session of the Alberta Legislature but that it will not come into effect until probably January 1 next year. The reason is that we are awaiting

assurances of federal legislation touching upon taxation matters to ensure that Albertans do not find themselves in a position where they have experienced an unexpected tax problem as a result of a distribution order made pursuant to this act.

Mr. Speaker, this act provides for a system whereby upon marriage breakdown different classes of property owned by each or both of the spouses are to be distributed in different manners according to specific guidelines set out in the act. However, not all property of the spouses is subject to the act and to a distribution order. For the record, perhaps I could clarify the exceptions. They are property acquired by gift from a third person, property acquired by inheritance, property owned by either spouse before marriage, any award or settlement for damages arising in a tort proceeding unless it's compensation to both parties, any insurance policy that's not insurance in respect of property. As I've said, this property, either at the time of the marriage or at the time the property or the interest in the property is acquired, whichever is later, is subject to this exemption.

Now property that is exempt, of course, does not remain exempt forever, in the sense that a farm owned by a young man before marriage would continue to be exempt throughout their lifetimes following marriage. Certainly its value at the time of marriage would be exempt, but the increase in value of that land, for example, would not be exempt. It would form part of the matrimonial property. Indeed revenue and income that may flow from such exempted property will also be taken into consideration by the court in making a distribution order according to specific guidelines.

Mr. Speaker, the key section of this act is one which, in rather simple language, says that all property acquired subsequent to marriage is subject to a presumption of a fifty-fifty split and is to be shared equally between the spouses, unless it appears to a judge that it would not be just and equitable to do so, having regard to certain guidelines set out in the act. For the record, Mr. Speaker, I refer hon. members to Section 8 of the act, which lines out the 13 criteria I referred to as guidelines. It may be important to address ourselves specifically to them and to keep them in mind in the course of debate on second reading.

The first of these guidelines deals with

> the contribution made by each spouse to the marriage and to the welfare of the family, including any contribution made as a homemaker or parent . . .

That's guideline number one, followed by guideline number two. Together I think they represent the most significant failing in the law at the moment.

The second one is:

> the contribution, whether financial or in some other form, made by a spouse directly or indirectly to the acquisition, conservation, improvement, operation or management of a business, farm, enterprise [et cetera] . . .

It means, Mr. Speaker, that for the first time the non-financial contributions of a spouse in a marriage will be taken into consideration and acknowledged as being considered to entitle that spouse to share, presumably equally, in the distribution of those assets.

The remaining factors do not relate to maintenance and alimony. I would refer the House to Bill 102, where many of the guidelines did in fact refer to matters which really dealt more with maintenance than these do, and quite properly so. Based on representations from several sources, we have endeavored to strip them out of Bill 20.

The third is the contribution, whether financial or in some other form, made directly or indirectly by or on behalf of a spouse to the acquisition, conservation, or improvement in property; fourth, the income, earning capacity, liabilities — and I underline "liabilities" — obligations, property, and other financial resources that each spouse had at the time of the marriage or at the time of the court application. Mr. Speaker, I underline "liabilities" because I think some people have rather naively assumed this is a property distribution, an entitlement solely to property. We sometimes forget that marriages have assets and liabilities, and it's important that those be considered.

The length of the marriage will be a factor, for obvious reasons, and "whether the property was acquired when the spouses were living separate and apart" is additionally a factor which could be considered in arriving at the distribution order, following the presumption of fifty-fifty.

"The terms of [any] oral or written agreement between the spouses" — I'll come in a moment to marriage contracts. Whether or not a spouse has made "a substantial gift of property to a third party, or a transfer to a third party other than for *bona fide"* consideration; whether there's been a distribution of property previously by the spouses by way of gift or other arrangement; an order of the court; any "tax liability that may be incurred"; or the fact "that a spouse has dissipated property to the detriment of the other spouse"; and the thirteenth factor is "any fact or circumstance that is relevant". Mr. Speaker, those are the guidelines which the court will be required to consider.

A moment ago I referred to marriage contracts They are provided for in this legislation and would allow a consenting husband and wife, subject to cer tain specific requirements of the act, to enter into a contract which could override the provisions of Part 1 of this legislation. The spouses would then be bound by the terms of their agreement. I emphasize "Part 1" because Part 2 cannot be contracted out of. That relates to home possession, and as a matter of public policy we have felt it would be inappropriate to con tract out of those provisions.

Bill 103 is incorporated in this legislation, Mr. Speaker. Generally we've had nothing but good response from across the province with respect to the powers of a court to order possession of the matrimonial home and household goods to the exclusive use of the other spouse for a certain period. I think we can all imagine circumstances where, for example, a matrimonial home may be in the name of both parties, but if children are involved the court will want to order possession of the premises to the exclusive use of one spouse and the children.

I hasten to underline, as I did before, that alimony particularly maintenance aspects, are not dealt with in this legislation. We have recently received the institute's report with respect to family obligations, and we will be considering that over the course of the summer. I would hope that sometime soon we can consider what appropriate legislative changes may he

necessary in that area of the law. It had been my original hope, Mr. Speaker, to have that work done by now and included in this bill, as some other provinces have done. However, that was simply not possible.

Of course, "maintenance" refers to regular or lump sum payments which a spouse may be ordered to pay to another spouse for the benefit of the other spouse and the children. This is dealt with under separate legislation, principally the Divorce Act and The Domestic Relations Act. Mr. Speaker, I think it is clear that the property award between spouses will certainly be a factor the court will take into consideration when it comes to awarding maintenance payments. For the sake of argument, presumably a female spouse who gains the overwhelming majority of the assets of the marriage and has custody of the children too, would likely be entitled to a very small maintenance award, if any. But of course those cases will have to be looked at very carefully on their merits.

As I think I've said, Mr. Speaker, the problem with the existing law is that it has never acknowledged, and therefore the judges have not been able to acknowledge, that on marriage breakdown a party who has made other than a financial contribution to the acquisition of property is entitled to share in that property. There have been a number of important cases in Canada in the recent past where that has been driven home to us rather dramatically. Clearly the lime is well past for that kind of reform in the law.

I have been somewhat discouraged by the attitude of certain groups who feel that the judiciary cannot really be relied upon to be fair and reasonable in the matter of the sharing of matrimonial property. I would simply hasten to point out that the judiciary is bound by the law. The solution rests with the legislators of the country and not so much with the courts. We are endeavoring to redress that quite appropriate grievance in Bill 20.

Similarly, marriage contracts have not been acknowledged in the law, in the absence of a statutory provision allowing the same, because the courts have held that portions of those kinds of contracts that deal with marriage breakdown have simply been ineffective.

Mr. Speaker, it's fair to say we have considered several options, beginning of course with the report of the Institute of Law Research and Reform and a number of other recommendations. Briefly stated, there are three basic approaches to matrimonial property, and an infinite number when you combine the variations.

The first of course is the concept of full community of property. That's rather simple and basic, quite simply that all property acquired by the spouses after marriage is jointly owned and jointly managed, and upon marriage breakdown each party is entitled to one-half of the assets and one-half of the liabilities. There are obvious weaknesses in that, and I'll come to them. The deferred community of property is very similar, in the sense that the parties are entitled to an equal share on marriage breakdown but are free to manage and dispose of property in the course of the marriage. Finally, judicial discretion: I think Saskatchewan is the only jurisdiction in Canada today which has almost a pure discretion system. This is where a judge has absolute discretion to divide the property according to whatever criteria he or she feels fair and reasonable.

I should say that recent cases in Saskatchewan, even where they have a pure discretion system, have tended to start from the assumption of fifty-fifty and go from there. That is one of the reasons I was not at all uncomfortable with Bill 102. But of course this bill provides a good deal more certainty than Bill 102 and a corresponding reduction in flexibility.

Mr. Speaker, the inequities in the deferred community of property concept are simply that it provides for an arbitrary split, fifty-fifty, down the middle, with varying degrees of injustices in many cases, because all marriages indeed are not the same. We can conjure up examples of where that might easily lead us to an unjust solution. The advantage of deferred community of property is certainty; its disadvantage is that it lacks flexibility and, I think, could result in varying degrees of unfairness.

Judicial discretion, on the other hand, has wide flexibility and does indeed lack some certainty. I think that has been its criticism by most in the public debate that has taken place in this province in the last few years. Judicial discretion is therefore very high in flexibility but low on certainty. The public response we've had on this issue in the last several months is to provide for greater certainty in this legislation and somewhat less flexibility. The way Bill 20 is structured, I believe that will be the case. Mr. Speaker, I believe it is a happy blend of both certainty and flexibility. It provides for sharing by a court, having regard to initial presumption of fifty-fifty, and then the address of the 13 criteria to which I referred earlier.

Mr. Speaker, I'm deeply grateful not only to the members of this Assembly but to a wide variety of citizens of this province, some of whom I think are represented in the gallery today, for the very considerable effort they have made in responding, reacting, and in fact initiating discussion on the subject of matrimonial property. For some time I was worried that both the institute's report and bills 102 and 103 would not receive very much comment. I was afraid this Legislature would be called upon to make certain decisions almost in a vacuum. I'm happy, and I think we all are, that we've had a good deal of public discussion and comment. Certainly a great deal has been written on the subject in this province in the last while. On balance I believe the bill is fair and reasonable, and that it will be broadly accepted across this province. I do believe it is a substantial step forward, as I think has been remarked by editorial writers, at least the ones I have been looking at recently with respect to the *Edmonton Journal, The Calgary Herald,* and the Red Deer *Advocate.*

In conclusion, Mr. Speaker, I would simply like to comment that regrettably the concept of deferred sharing is somewhat of a misnomer. I think it's perhaps unfortunate the institute chose to use that word, because it's led people to believe the institute recommended a very firm and fixed fifty-fifty split, which of course they did not. They recommended a fifty-fifty; however, the judge could vary that where he was satisfied that the contribution of a spouse to the welfare of the family was substantially less than might reasonably be expected. But the captioned words "deferred sharing" on the lapel [button] I'm wearing have been read by many as "automatic fifty-fifty", whereas in fact deferred sharing can apply to deferred community of property or indeed judicial dis-

cretion. I believe this bill is as close as you're going to get to the majority recommendation of the Institute of Law Research and Reform and still retain some additional element of flexibility, which I think is needed.

For those who are blindly focussed on the majority recommendation of the institute's report, I would point out that that was a four to three recommendation. Sometimes we tend to focus too much on the majority view and not consider the minority view. But even looking at the majority view, Bill 20 comes very close to the institute's report. It is in fact a presumption of fifty-fifty with certain guidelines. I'm very confident the courts will only disturb the fifty-fifty finding when they have just and reasonable cause for doing so.

Mr. Speaker, I will conclude on that, and look forward to what I'm sure will be very interesting discussion and committee study of Bill 20.

MR. CLARK: Mr. Speaker, in taking part in the debate on Bill 20, at the outset I'd like to congratulate the Attorney General on two counts: first of all, Mr. Attorney General, in never having brought last year's matrimonial property Bill 102 to second reading; and his efforts here at modifying the bill in a direction that is progressive rather than conservative. I'm also pleased because, in fairness to the Attorney General, I believe he solicited and received much more public input than he had initially expected on this matter. I commend the Attorney General for the way he's gone about that particular portion of the bill.

I would say though, Mr. Speaker, that this bill was introduced eight sitting days ago. In Calgary the Public Affairs Bureau have advised people that in all likelihood copies of the bill wouldn't be available until either last Friday or Monday of this week. I know my colleagues and I have sent copies of the bill to a number of interested citizens, and I'm sure many other members have too. We're really still in the process of getting reaction from them. I also feel confident that this bill has to be read, analysed, discussed, and certainly reflected upon. I'm sure all members of the Assembly have found that to be the situation.

I've been as frustrated as any member in this Assembly by the delay the government had in the past in bringing forward this legislation. The issue of matrimonial property has really been before this Assembly since the late 1960s. It was before 1971 that the Institute of Law Research and Reform began work in this area. But the first government bill came forth only last year, and the second edition less than two weeks ago.

However, with several years having gone into the formulation of this difficult and, I admit, very complex legislation, I would say to hon. members that it is folly to attempt to make up for lost time in overhasty passage of this bill, without adequate scrutiny by this Legislature and I think by a large number of people who have received copies of the bill recently and are still in the process of pulling together their thoughts on the matter, and certainly haven't had a chance to get back either to the groups and organizations they're associated with or their own particular Members of the Legislative Assembly.

I would refer hon. members of the Assembly to a statement by the Attorney General himself when questioned about the timing of matrimonial properties legislation on February 25, 1977:

> . . . one of the hallmarks of a very successful government is its capacity to be flexible. When you discover that you may be moving down a road, legislatively or otherwise, that you have not clearly thought out, that you feel may do injury to some people, I think it's intelligent and responsible for a government to occasionally pause . . . .

The point is well taken, Mr. Speaker. In fact, from the look on the Attorney General's face, seldom is he so impressed with his own quotation.

MR. FOSTER: Coming from the Leader of the Opposition, I can't help it.

MR. CLARK: If you'll just listen as carefully from here on.

I think it would be very wise on the government's part to pause right now and ask itself: are we wise in pushing this legislation through second reading, committee, third reading, and royal assent in the next very few days, or would we not be wiser to follow the suggestions made by the Status of Women Action Committee and others who say, let's look at the legislation over the summer — admittedly the government has moved some distance on this area — with the view in mind of dealing with it quickly as a priority item at the fall session this year?

Mr. Speaker, considering the complexity and controversial nature of this bill, I propose that really it should be held over until the fall session. Had it been introduced at the start of the session, I think there would have been perhaps a month or something like that for people to look at the legislation, to get their reactions to the Members of the Legislative Assembly. Then I would say, fair ball, let's move ahead with the legislation before we close this spring session. I know some hon. members are going to say, for two years we had the Leader of the Opposition saying to the Attorney General, when are you going to move on the matrimonial properties legislation? Fair ball. Part of our job is to attempt to have the government move on pertinent issues of the day. But now that we have the legislation before us, I think we would be wise to ponder the implications of the legislation just a while longer.

Mr. Speaker, I really have four specific areas of comment as far as the bill is concerned. I would have to say this is a big improvement over the piece of legislation the Attorney General brought in earlier. Before I become involved in those four comments, I would like to say to members of the Assembly that in 1973 a survey was done by the Institute of Law Research and Reform. Albertans were asked a number of hypothetical questions relating to division of property in the event of divorce. The replies varied with particular questions, so I will refer to the researcher's own interpretation. I quote from that interpretation:

> The chief conclusion to be drawn from the results of the survey is that the majority of Albertans view marriage as a joint venture — a partnership where each spouse contributes to the domestic economy, where property brought into the marriage and property acquired during [their] marriage is considered to belong to both spouses, and where, upon dissolution of the marriage,

property should be equally divided.

In another study, organized jointly by the same institute and the Alberta Women's Bureau in 1974, on every one of 10 different questions at least 82 per cent of the respondents indicated that if the husband acquires the property while the wife tends the house, the wife nevertheless deserves a share of the property upon marriage dissolution. Of the 82 per cent, 78 per cent believed a fifty-fifty division was appropriate.

I welcomed the comments of the Attorney General when he described deferred sharing as something more than an automatic fifty-fifty split. I think the most pertinent comment I can make here is to quote from report 18 of the Institute of Law Research and Reform. On page 161, commenting on deferred sharing, it says:

> (3) The court [should] not exercise its power under subsection (2) unless
>
> (i) it is satisfied that the contribution of a spouse to the welfare of the spouses and their family during all or part of the statutory regime was substantially less than might reasonably have been expected under the circumstances . . . .

It's with that point of view that I look at deferred sharing as the route I believe we should be moving.

Looking at Bill 20 for a moment or two, I think it's fair to say that Section 7(4) indicates some sympathy to equal division of matrimonial property. As it now stands, however, the presumption is weak:

> . . . the Court shall distribute that property equally between the spouses unless it appears to the Court that it would not be just and equitable to do so, taking into consideration the matters in section 8.

Mr. Speaker, the phrase "unless it appears to the Court" is an invitation to the court to ignore the presumption of equal sharing and invoke judicial discretion. The Attorney General shakes his head. I'll be pleased to hear his comments on that, either at the end of second reading or in committee when we look at the particular clauses. I think many of us want to prevent the kind of injustice that ended up in the Murdoch case.

Mr. Speaker, the responsibility to define clear principles according to which matrimonial property should be divided lies not with the courts but with this Legislative Assembly. I noted with some interest the comments the Attorney General made when he characterized the legislation as a "happy blend" between "certainty and flexibility". I think there's really some question as to where the certainty ends and the flexibility starts. I think we have to look at Section 7(4) and ask ourselves: how clear a direction is this to the courts?

The second concern I have deals with the courts really becoming the instrument by which matrimonial property is going to be divided rather than on the principles decided here in the Legislative Assembly itself.

My third comment relates to Part 2, matrimonial home possession. My suggestion there is that the bill does not really recognize that the home itself may well be the most substantive part of the matrimonial property and should therefore be calculated in the division of property. At the same time, I realize that a home is more than just a marketable commodity. Its primary function is a place to live, not a thing to sell. Mr. Speaker, I admit openly that this is a difficult part of a difficult bill, and I believe it needs considerable rethinking.

Finally, Mr. Speaker, my fourth concern with the bill in principle is that, as I understand it, it contains no provision for the division of property acquired in common-law marriages. People do acquire property within such relationships, and they have a right to legislation which indicates the just division of such property in the event the relationship ends. Matrimonial property legislation should specifically allow for it to be applicable to common-law marriages.

To summarize, Mr. Speaker, I'd urge the government to keep the bill on the Order Paper during the summer; if one wants to put it this way, to accede to the requests from the Alberta Status of Women Action Committee to hold the legislation over until the fall session, when I think there will be a great deal better understanding of the implications of the legislation not only in the Assembly but across the province. Then, early in the fall session we should move on the legislation. My urging to the Attorney General — and I hope he's in a receptive mood — would be that now isn't the time, in the course of eight, maybe 10 sitting days by the time we're finished, to put this matrimonial property legislation through, when in fact it's been before the Institute of Law Research and Reform for some time and before the government for some three years, as I recall. We would be wise to take an additional three to four months for one last public inspection of this legislation before it's passed, keeping in mind that when the legislation is approved in its final form, the Assembly itself should be firmly establishing the principles and that we shouldn't be abdicating that responsibility to the courts under 7(4).

DR. PAPROSKI: Mr. Speaker, may I make a few preliminary remarks regarding Bill 20. As we have passed through International Women's Year, it has been stated that in fact the consciousness of men concerning women as persons has developed considerably. I think hon. Members of the Legislative Assembly would agree with that. I also think there is a higher consciousness about female identity amongst women themselves.

Mr. Speaker, that struggle against preconceived notions detrimental to full female personhood will continue, I think, for some years to come. As time goes on, I'm confident a more acceptable balance will indeed be found, hopefully within the next few years, but only with the strong support of all members of society.

I think hon. members of the Assembly would recognize that those true concerns of women over the past years are proper. I think every member in this Assembly has that concern and voiced it more than ever before when we started discussing the matrimonial property legislation, Bill 102, which is now transcribed in an improved state into Bill 20. I think we as society have to meet that challenge. The outmoded notions regarding the attitude of females and our attitude as males towards females have to be challenged with vigor and determination, and I think we're doing that.

I suggest, Mr. Speaker, that the challenge was started in Canada only 50 or 70 years ago, if we read

some of the recent history books. Hon. members of the Assembly will recognize that during that short period of time women were given the right to vote. They fought to end so-called sweat labor. They fought to develop day care centres. Hon. members may recall that only during the first world war were they allowed to join the armed forces, and they participated with their male counterparts in a most determined way.

Today, Mr. Speaker, we're meeting another challenge regarding matrimonial property.

In addition, I say with embarrassment that I failed to mention we even have females in Parliament, in this Legislature, and in legislatures across this country. So much has been changed; today we're making a few extra changes.

One of the concerns in the matrimonial property legislation we are dealing with today, Mr. Speaker, is the public response. I say that is a concern not because the response is a concern per *se,* because in my opinion the public response in my opinion was tremendous; but the concern that there was such a heavy, one-sided response against judicial discretion and in favor of deferred sharing. The minister has taken note of that, and I think hon. members have. I suggest that those who haven't had better take heed. The Alberta Status of Women action group and many, many other groups, whether it be the Alberta Association of Registered Nurses, the Alberta Association of Social Workers, all have made their comments well known to us as members of the Assembly.

Some individual constituents have indicated their concern. May I briefly quote one? "I live in your constituency and am very concerned about the new matrimonial property law" — which was was Bill 102 at that time — and the concerns the hon. Attorney General has indicated have been to some degree corrected. Mr. Speaker, another letter from a "very much concerned" constituent describes some concerns regarding fifty-fifty deferred sharing versus judicial discretion, of course in favor of deferred sharing. Another letter from a constituent states, "I believe also, that because the proposed legislation does not recognize as a basic principle that marriage is an equal partnership, it violates the rights of women." All proper comments for consideration and deliberation.

Mr. Speaker, as the hon. Attorney General has indicated, those who have responded have done so with very careful deliberation regarding the pros and cons. Although some haven't considered the legal aspects to the same extent that I feel a lawyer or judge could, they have considered it in a very practical sense. Their deliberations and considered opinions have been considered over the past few months, and I'm pleased the government has done that to some extent. I've met with some of the groups, and I recognize that some members of those groups are in the gallery. Again I acknowledge their contribution, not merely because they're here. I would have made that statement because their contribution was very deliberate in booklet form, in letter form, and in a sincere, direct, eyeball-to-eyeball meeting.

Mr. Speaker, the action of this government bringing in Bill 20 in a modified way after Bill 102 must be commended. I'm saying that to the hon. Attorney General, recognizing the stress he was under with the barrage of information thrown at his feet. No one in this Assembly can say it was a rush job, a snow job, or the input was not allowed. And deliberation of that input was done. Such an important item obviously needed time.

Knowing some of the elements or lack of them in the law prior to this legislation, I'm certainly pleased that it is being brought forward. Because as we should all remind ourselves, the existing law before this legislation — and it hasn't been enacted yet, as we know — states clearly that the husband's earnings belong to him and the wife's to her. But the homemaker, the wife in most cases, has no right to her husband's property on divorce or separation, although she may have the right to maintenance. Mr. Speaker, her contribution as a homemaker is not recognized as giving her any property rights. Even I as a legislator, and I'm sure the majority of people in our society, would have presumed that the homemaker's contribution would have been considered.

In other words, it did not provide adequate recognition of a married woman's contribution as a homemaker; it did not recognize a wife's indirect contribution for her work in a family business or farm; even with a wife's direct contribution toward family business, the law still had serious shortcomings regarding records, the intent, et cetera. It did not reflect the majority of Canadians' wishes in that respect. Somebody mentioned statistics. A 1975 Gallup poll showed that some 63 per cent interviewed believed a man should share equally assets accumulated during marriage. This was also true in the survey done by the Institute of Law Research.

Mr. Speaker, in essence there are three considerations here: deferred community of property, the judicial discretion system, or a blending of the two. I feel Bill 20 in fact blends the two. Now there are those who would say that blending is not in proper balance. I suggest that under the circumstances, with all the information we have at this time, it is a fair balance. With time, the Attorney General or any other legislator may decide to bring in amendments to make that blend a little more balanced toward deferred sharing. But that remains to be seen.

Mr. Speaker, it's obvious that no matter what is chosen in this legislation by all hon. members of this Legislature representing a variety of groups across this province, some will be happy and some unhappy. But facing the reality that in fact separation and divorce — especially divorce, which this bill deals with — is a societal concern that exists and will continue for some time unless we find some solution — I don't expect to find that solution quickly — I'm pleased we have an acceptable blend of the two items, deferred sharing and judicial discretion.

Mr. Speaker, I hate to repeat some of the items mentioned already by the Attorney General, but I think it's valid and important because it gives a perspective that may be missed by some members of the Assembly or by the public as they read *Hansard. I* don't pretend I know the answers to all these things, but I feel it's worth mentioning anyway. Deferred sharing: as I understand it, during marriage each spouse manages and disposes of property. If marriage ends, property is valued and divided equally with proper compensation, if it is not equal in fact. In judicial discretion, regardless of the legal ownership by one or other spouse, the judge distributes property

according to what seems just to him. Under Section 8 in this bill the judge is obliged to take into consideration a variety of items. I think there are some 13 items.

Keeping this in mind, and the Gallup poll and the Institute of Law Research and Reform report survey, keeping in mind the public input against judicial discretion and for deferred sharing, I think the government was hard pressed indeed to have a blend of deferred sharing and judicial discretion. I have tried to listen, evaluate, and conclude in a most objective manner. I'm sure all members of the Assembly have done the same thing. Indeed my direction seems to favor a blend of both of these, maybe balanced a little differently than what is in Bill 20, but better than one way or the other.

Mr. Speaker, I think it merits just a few moments to reiterate some of the advantages of deferred sharing versus judicial discretion. Maybe we'll recall this in an historical sense, one, two, or three years down the line, when we have to go over the debate again and modify the bill as it now stands if some additional information comes to light. The advantages of deferred sharing: it recognizes that marriage is an economic partnership as well as a religious and social partnership; it recognizes and acknowledges the homekeeper; it eliminates uncertainty, as the hon. Attorney General mentioned; it discourages litigation and confrontation, and the resultant stresses, strains, and costs involved in litigation. The other advantage is that it adheres to our social desires, our value system, as most accept and understand them; that is, equality in marriage.

What are the advantages of judicial discretion? Well, it's flexible, Mr. Speaker. It sure is flexible. As a matter of fact, the judge will take those 13 points and he has a wide-ranging flexibility. These are unfortunately the disadvantages. But the flexibility that on one hand may be wide-ranging and a disadvantage, on the other hand obviously has an advantage. It is said that it's simple to explain, but you go to court for the explanation. That's difficult for the average person to understand, but that's the way it is under judicial discretion. The court will take the wife's contribution as well as the husband's. When the guidelines are set down as in Section 8, at least the judge has parameters and guidelines. Having faith in the judicial system as we all should have, I hope it comes out to a good balance for both individuals.

Particularly important under judicial discretion are the special problems that may arise, such as alcoholism; a husband or a wife, as the case may be, who is irresponsible; or a marriage of very, very short duration. I think hon. members should quickly recognize that could happen: a one-week or one-month fling, and you have a problem and have to split everything fifty-fifty. Certainly no hon. member in this Assembly, male or female, would agree there should be a fifty-fifty split after a six-month or one-year marriage which ends in a divorce. So there's an advantage.

Mr. Speaker, what are the disadvantages of deferred sharing? One, during marriage truly nothing will change. A wife can still remain in an unfair economic position until a marriage ends, if in fact it ever does. I suggest that argument doesn't hold water, because most wives have the opportunity of gentle persuasion. Indeed they should apply that kind of pressure. The other disadvantage of deferred sharing is that if one person is lazy, irresponsible, or becomes a hindrance, he still has the opportunity of sharing on a fifty-fifty basis.

The other item is identification of shareable property and accounts, which may be very difficult. I don't think that's a good argument or a disadvantage at all. Anybody who is married and has property certainly should be able to account for it. The other problems, such as sharing of pension insurances and taxation, are of course difficulties that can be resolved with time.

The Attorney General hasn't mentioned, or maybe he implied in an indirect way, that the vast majority of divorce cases should and will be kept out of court and satisfactorily resolved, recognizing the presumption of fifty-fifty sharing in this particular bill. Clearly, this will settle most cases. I'm pleased that the presumption of fifty-fifty is now brought in, in Bill 20.

Mr. Speaker, those who do go to court should be there only because of extraordinary items. However, this bill doesn't state that. As we know, judicial discretion will apply merely because there is a challenge by one or the other spouse. If there was a weakness in the bill, I suggest that is it, because a mere challenge is all that is required. However, with time maybe we'll modify that.

I hoped something would have been in the bill regarding another concern, the special pre-court hearing. I suggest it should be automatic, require both parties to attend, and attempt in a very serious way to resolve the issue before it goes to court under judicial discretion. Mr. Speaker, I know there are pre-court hearings. Those in the judicial system who are in this Legislature would say that in fact exists. But I'm talking about a special pre-court hearing, where maybe the problem could be resolved.

As I mentioned before, I would hope that under judicial discretion we could be more definitive and say a mere challenge is just not enough. There has to be a challenge with some definitive point made, so that challenge could be weighed by the court before it even gets to court, to see if they in fact have a reason for judicial discretion or going to court.

Mr. Speaker, I'd like to make further points on the bill. I feel the bill deals with the issue of how to divide between married couples matrimonial property, household goods, matrimonial home, and all other property and assets. I understand that maintenance will be dealt with by other legal parameters. I've indicated already that the bill presumes equal sharing of assets after marriage, and I'm pleased to see it there. Maybe in the future it could even be strengthened to some degree.

The third point, Mr. Speaker, is judicial discretion only if challenged; and gifts, inheritance, and damage awarded in settlement in tort, insurance, and claims proceeds will be exempted from the fifty-fifty split, unless given to both from the beginning.

The fifth point, regarding conduct, age, and health, has been deleted as a consideration. I'm very pleased to see that, because I made representation with other members regarding that item.

Mr. Speaker, I commend the hon. Attorney General for bringing in another point, which I think is vital and very important; that is, the married couple may contract out as they see fit. It means that in fact this act will not apply if a couple has a contract with clear understanding of what they are doing and of possible

future ramifications, with a proper independent lawyer for both the male and the female — there can't be any conflict, they have to be separate lawyers for consultation, as I understand it. Is that correct? The Attorney General is nodding his head.

Regarding the matrimonial home section, Mr. Speaker, the court, as it sees fit, can give the home or assign the lease to one or the other spouse. Very importantly, if one or the other spouse knows or believes he or she should have known that the divorce is possible or probable, then the court could prohibit selling of the home or make restoration based on the fact that he or she knew they were going to court.

Mr. Speaker, in my opinion the legislation is good. It could be better, but what couldn't be better in this world? Considering the amount of work that has gone into it, I suggest we should be pleased that we have some type of balance between deferred sharing and judicial discretion. I think it emulates and reflects the feeling of a good portion of our society. I hope the Attorney General, after reading the remarks and allowing the legislation to be tested for a few years, will seriously consider and not be afraid to improve, clarify, or respond even better to our needs, if he or future legislators feel it's needed.

Mr. Speaker, I could have made many other points. I've skipped over them because of the time element. I would like to compliment the Attorney General. I know he has gone through a lot of hard work in his deliberation regarding that. I feel it responds to needs of many people in Alberta for the present time, and I congratulate him.

MR. NOTLEY: Mr. Speaker, I welcome the opportunity to take part in this debate. I must say I found the remarks of the hon. Member for Edmonton Kingsway quite interesting. He made a number of observations that struck me as being valid, indicating at least qualified support for the bill. Listening to several of his observations, it was apparent to me that he's still from Missouri, and the Attorney General is going to have to show him. I suspect quite a few people are in that category as we review Bill No. 20.

Mr. Speaker, there's really little doubt that matrimonial property legislation has been long overdue. Both the hon. Attorney General and the Leader of the Opposition mentioned the Murdoch case, which was finally decided by the Supreme Court of Canada on October 20, 1974. Neither mentioned the resolution of 1971, just before the last provincial election, that asked the Institute of Law Research and Reform to look into the matter. It read:

> Be it resolved that the government of Alberta request the Institute of Law Research and Reform to study the feasibility of legislation which would provide that, upon the dissolution of the marriage, each party would have a right to an equal share in the assets accumulated during the marriage, otherwise than by gift or inheritance received by either spouse from outside sources.

Mr. Speaker, that resolution was the basis for the request by the government to the institute. We had the final report of the Institute of Law Research and Reform in August 1975.

Before the Legislature convened I had the opportunity to discuss this matter with a large number of people throughout the province, also to review it at some length with the people I have the honor of representing in this Assembly. A series of meetings were held during the course of my pre-session tours. I would like to outline the results of the poll to the Assembly. I put the options to them, and I don't think anyone can dispute them. Both the hon. Member for Edmonton Kingsway and the Attorney General outlined the pros and cons of judicial discretion on one hand, versus deferred sharing on the other.

I must say, Mr. Speaker, I find it rather surprising that the overwhelming response was in favor of deferred sharing: 325 in favor of deferred sharing, 32 in favor of judicial discretion, and six sitting on the fence. And before people jump up and say, that's the sort of thing you would expect; the hon. member had the NDP Association call all these meetings, and that was just a response in the NDP membership — that really wasn't the situation. In most cases the meetings were sponsored by groups like the chamber of commerce, Unifarm, the National Farmers Union, and non-partisan organizations.

I think the response I got from my little poll within the Spirit River-Fairview constituency was an indication of the attitude of most of the general public. Certainly the correspondence I've received as a member of the House has been very strongly in favor of deferred sharing. I would just note that from time to time, when the public disagrees with statements I've made in the Legislature, the press, or the media, they're very quick to remind me of their disagreements. I get both sides of the story, but the mail I've received on the matter of matrimonial property has been overwhelmingly in favor of deferred sharing. The Leader of the Opposition commented on the law reform questionnaire which indicated 61.2 per cent favoring fifty-fifty sharing and only 13 per cent in favor of judicial discretion.

I think it's important as we look at Bill 20 to recognize that despite the rather eloquent introduction of the bill by the hon. Attorney General — a very reasonable and low-key pouring of oil on troubled waters — when we set that aside, what we really have here is a guided judicial discretion bill. Admittedly it's somewhat of an improvement over the bill introduced in this Legislature last fall. Quite frankly, almost anything would be.

But before we jump up and down and say we have the best of all worlds, I think we have to take a fairly close look at Bill 20 and analyse what the hon. Attorney General is asking this Legislature to endorse. He says the presumption is fifty-fifty. That's right. Section 7 indicates a fifty-fifty presumption, but adds, where it's just and reasonable. Then we have 13 qualifying points, 13 provisions which all, in one way or another, can qualify the presumption of fifty-fifty sharing. I'm not saying they will, but they can qualify that provision. While I can't say they will qualify the fifty-fifty presumption, on the other hand neither can the hon. Attorney General or the government members sitting in the House say they won't.

We're going to have to see what happens in the courts. In fact we're going to have to wait for the case law to develop, and that could take a number of years. The Alberta Status of Women Action Committee is saying — and in my judgment it's a rather reasonable proposition — that in a sense by putting in the 13 points that will be up to the case law to interpret over a period of years, this Legislature is

side-stepping a responsibility for clearly delineating what the law will be. We're going to say, yes, we're passing a law here. The presumption is fifty-fifty, but you have to take into account these 13 provisions. The 13 provisions are going to go through the courts. We're going to have the whole process of establishing precedents. What in fact will take place then is that we have the possibility of fifty-fifty sharing. No question about that — the possibility. But it is a possibility only if we are optimistic and assume that the case law will rule in favor of fifty-fifty, taking all these qualifications into account.

Mr. Speaker, if I didn't misunderstand the hon. Member for Edmonton Kingsway, he indicated in his remarks that there would be less litigation. With great respect, I can't imagine a lawyer, handling either one side of the case or the other, advising anything other than going to court with Bill 20. There's so much ambiguity in the legislation that, good heavens, if you're going to successfully represent your client's interests there is almost a natural demand that you say, look, we've got a case, let's take this to court. You look at these 13 qualifying provisions, and in most cases there will be some way of arguing that we can get less than fifty-fifty.

If there's any uncertainty, we get to the thirteenth: "(m) any fact or circumstance that is relevant". I can just see what some of our skilful people in the legal profession will do with "any fact or circumstance that is relevant". We see what they do at the present time with rape cases. One of the reasons women's organizations in the country have been requesting some changes in that particular approach is because of the way in which defence counsels have dragged everything into the record in the case of court proceedings. Are we going to have open sesame then in terms of analyzing the conduct of both partners of the marriage, for the last year, two years, five years, or 10 years?

At this stage of the game we don't know. In the final analysis the thirteenth provision will be determined as a result of precedent. Precedents are not established overnight. They're established as a result of the system working slowly but surely. That's going to take years. Small wonder that the Status of Women Action Committee as well as a number of people in the legal community are saying to us, look, you people are the legislators. You set the law. You clarify what it's supposed to be. Don't foist this off on the courts so that it's going to take years and years.

I wish we could arrive at a situation where there would be as little litigation as possible. One of the major reasons I think deferred sharing is preferable to judicial discretion is that it will limit the litigation. When I am told that lawyers charge between $300 and $1,000 a day on these cases, that adds up to quite a bit. I say to members of the Assembly, we are living in a dreamer's paradise if we assume that by passing Bill 20 we are going to be reducing the litigation. For the next five or 10 years, or however long it takes to establish the precedents, we're going to have a bonanza field day for the legal profession as they try to establish by precedent what should be established clearly in the provisions of this act.

The hon. Member for Edmonton Kingsway was quite right when he talked about the unnecessary bitterness that will result when legal action is taken. A statement of claim will only add to the trauma of a difficult, emotional experience, particularly when we take into account "any fact or circumstance that is relevant".

Mr. Speaker, in looking at matrimonial property legislation, we have to face the fact — I suppose for most of us the rather unpleasant fact — that divorce is growing and that probably Alberta has the highest divorce rate in Canada. But however unpleasant that fact may be and however we may regret it, it just happens to be a fact of modern life. That being the case, we have to establish a matrimonial property law which is truly just and reasonable.

I say to members of the Assembly, with absolutely no disrespect to the judiciary in this province, that I believe we are being unfair to the judiciary when we ask them to make a subjective assessment, not an objective assessment but a subjective assessment, on who should get what in dividing up the property of a couple who are separated or are breaking up their marriage. Judges are not marriage counsellors. In my view it just isn't reasonable that we can expect, with the pressure on them, that they will be able to go into the very personal, subjective evaluation that would be necessary to really make judicial discretion, fair as it sounds, genuinely fair.

I think of some of the couples I know as individuals who have sought and obtained divorces. And knowing the details of their lives fairly well, I would find it extremely difficult taking these 13 guidelines, making a decision as to who should get what in the matrimonial property division.

Are we going to be asking our judiciary, with the tremendous pressure as a consequence of more and more divorces, to have to make these decisions? Mr. Speaker, quite frankly, however much respect I have for the judiciary, I don't believe that is either fair to them or fair to the couples who are trying to settle the matrimonial property.

Mr. Speaker, the advantages of deferred sharing — and here I do agree with the hon. Attorney General. I think we have to be very clear that we're talking about the division of net gains or losses after the marriage. Too often we tend to focus on the gains. The fact of the matter is that one of the major contributing factors of divorce in this country, or in North America generally, is financial difficulties. So very frequently the division will not be the division of gains, but will in fact be the division of losses acquired during a marriage.

Mr. Speaker, I would say that under deferred sharing one of the major advantages is that in most cases, not in every case but in most cases, the division of property can be settled quickly without having to bring in the legal profession or go through judicial assessment. As the Attorney General pointed out, that of course would not always be the case, because where one spouse can demonstrate that the contribution of the other is "less than might reasonably have been expected" — here I'm quoting from the Institute of Law Research and Reform — then there can be a different settlement of the property. But the onus is upon the spouse to indicate and to prove that the other has done less than might reasonably be expected. In most cases, Mr. Speaker, under deferred sharing it would be a much faster and, in my judgment, a far more equitable way of dividing the matrimonial property.

In fairness I think I should say that even if this

Legislature were to labor here for the next 10 years and try to come up with a perfect system, you are never going to be able to develop a system of dividing matrimonial property that will be fair in every case. It just isn't possible to do that. And the more we try to drag in examples, it seems to me the more we put together a patchwork arrangement which will end up being neither fish nor fowl, neither having the flexibility of judicial discretion nor the certainty and the equal sharing of deferred sharing.

Mr. Speaker, I know some people have advanced particular arguments. I know this has been raised in rural areas of the province. The question of the family farm has been raised as an argument. Joe and Mary Smith have farmed on a section of land for 30 years, and now they're going to get a divorce. Under the provisions of deferred sharing, what's going to happen to the farm? Is Joe going to lose the farm? I say, Mr. Speaker, I think we have to look at that. It's a reasonable problem. There are all sorts of reasonable problems that will arise in any method of allocating marital property. But I would say to the members of the House that, first of all, we do have provincial agencies that should in most cases allow the people to bridge the gap. We have the AOC for small businessmen. We have the ADC for our farmers.

But I think we have to keep another point in mind. This is the thing that has always worried me about the argument that we're going to have to sell the business or sell the farm. The suggestion somehow is that if the wife would take less than 50 per cent it would be okay; the suggestion that the preservation of the property is more important than the right of the spouse to receive her fair share. Mr. Speaker, however sympathetic I am to maintaining the small business or family farm operation, I say to the members of the House that in law we cannot set or attempt to resolve in a piece of legislation something that would, whether by design or accident, place property rights before the individual rights of the citizenry of our province. So I just can't accept that particular argument, Mr. Speaker.

But I do say there are methods where we now have in place vehicles of the government that would in most cases allow the assets to be divided without selling out the small business or the farm. The Institute of Law Research and Reform outlines a number of things. It could be a balancing payment. It could be an equity that one spouse takes in the business. Or as I mentioned, Mr. Speaker, we do have agencies of government in the loaning business.

I'm not suggesting that that in itself is going to solve every problem. I have no doubt that whether we opt for judicial discretion or deferred sharing, there is going to be a myriad of cases that somehow won't fit. But in drafting legislation we have to strive for a law which, for the vast majority of people, provides the most equitable and fairest possible way of dividing property.

I sometimes wonder, Mr. Speaker, what the people who oppose deferred sharing are afraid of. Is it the syndrome of the millionaire and the blond; the fact that some snappy young thing comes along and marries the 60-year-old millionaire, stays with him for six months, then says, "tallyho", and is going to get half the assets? The fact of the matter is that under deferred sharing you're only eligible to get half of the gains during the term of the marriage. Mind you, if the millionaire is in the real estate business, I suppose those gains could be very substantial, even in six months. But I'm not overly sympathetic to that particular argument.

Mr. Speaker, I say to the members of the House that Bill 20 reduces the flexibility of genuine judicial discretion. Judicial discretion has as the major argument in its favor that it provides real flexibility and allows a judge to look into all things. But of course we've moved away from that in Bill 20. We've said we're going to have guided judicial discretion and only the assets after the marriage are included. So we've taken part of the provision of deferred sharing and we've stuck that in. What we've attempted to do is blend facets of deferred sharing with aspects of judicial discretion. On the other hand, the equity of deferred sharing is denied. We have reduced the flexibility of judicial discretion and have turned our backs on the equity of deferred sharing in this legislation.

I say to the members of the House that Bill 20, as it presently stands, can only block up the courts, produce a bonanza for the lawyers, and postpone fifty-fifty sharing until whatever time it takes for the precedents to be established. I'm not surprised, Mr. Speaker, that there are little buttons out from many women's groups in the province saying, "50-50 or Fight", because despite the assurances of the hon. Attorney General and others, we still have a long way to go before we nail down clearly in the law a commitment to fifty-fifty sharing.

The last point I want to make is very brief. This bill was introduced in the Legislative Assembly on May 4. We've had only 11 days to consider Bill 20. Various groups have attempted to analyse it. The hon. Leader of the Opposition indicated that it wasn't until last weekend that the Premier's office in Calgary had copies of the bill. I say to the members of the Assembly: is there any major rush in ramming this bill through the House now, in the eleventh hour of the spring sitting of the Legislature? The minister has indicated that in all likelihood it's not going to be proclaimed until the end of the year because of the taxation question.

Therefore, Mr. Speaker, it would seem to me that the proposition made by the Alberta Status of Women Action Committee that we defer the bill until the fall session is an eminently reasonable one. It would allow groups, both pro and con, to contact their respective members of the Legislature and indicate their concerns, suggestions for amendments, and proposals to improve the legislation. In view of the fact that it took the government caucus most of this session, from the beginning of March until May 4, to finally work out the compromise internally, I see no reason that in the course of 11 days, and eight of those sitting days, we should be asked to pass Bill 20 without having an opportunity to get input from the people who have elected us.

I've referred to the discussions I've held with people in my own constituency. But unfortunately the options I placed before the people in February have been modified to a certain extent by Bill 20. I'm willing to admit that Bill 20 is a better piece of legislation than Bill 102. But, Mr. Speaker, I would say it would be in the interests of everybody to have this summer so that people could make representation to their members and the members in turn could have an opportunity to discuss the provisions, particularly

the qualifying provisions of Section 8, with their constituents.

Accordingly, Mr. Speaker, I wish to propose an amendment to second reading: that the motion be amended by striking out "be now read a second time" and substituting "be read a second time six months hence". That's the traditional six-month hoist. I would just advise members that if a fall session were held earlier than six months, of course any motion in that fall session would supersede the six-month hoist.

DR. PAPROSKI: Mr. Speaker, I'd like to rise on a point of order just for clarification. The hon. Member for Spirit River-Fairview indicated that I said there would be less litigation. I did not say there would be less litigation. I implied, and feel I indicated quite clearly, there would be less litigation if the balance were more in favor of deferred sharing. But I also indicated there would be less flexibility with deferred sharing.

MR. GHITTER: Mr. Speaker, in rising to deal with the amendment, I think it is important to deal with the legislation as a whole in order to determine just how valid the arguments of the Member for Spirit River-Fairview really are as to the necessity for a six-month hoist, as he calls it, pertaining to this legislation.

Mr. Speaker, I rise as a supporter of this legislation for many reasons. I believe one must at all times look at matrimonial property legislation from two basic points of view. The first is that it is always sad, in the sense that legislation or court time is so totally taken up by dealing in matters that involve marriage breakdown and many of the social problems we have in our society, when one looks in terms of the immense number of divorces occurring in our province, the immense amount of court time being taken up dealing with matrimonial matters — not with the new legislation, but with the legislation as it exists today — when one takes into consideration the tremendous disharmony, the tremendous social ills that are occurrent because of divorce and all the attendant difficulties.

Mr. Speaker, in dealing firstly with the aspect of why we should go ahead with this legislation at the present time, you'd think this matrimonial property material had just come before us for the first time. You would think we hadn't been debating it in the public scene for years. You would think the arguments of deferred profit sharing, judicial discretions, and the like all of a sudden came upon this Legislature by great surprise, that these are new concepts which have now been imposed upon the citizens of the province of Alberta and that they need all kinds of time to determine what the legislation says.

Mr. Speaker, I think it's in the interest of what is happening in our society today to come to grips with the legislation and deal with it now. This matter has been going on actively for the last three years. All members of this Legislature have met with groups representing, if the truth be known, I suppose only one-half of the story, but a very important half. I would think those of us who studied the report of the institute were well cognizant of the various problems that exist in trying to come to grips with what is fair and reasonable matrimonial legislation. In fact the legislation was introduced in the House at that time for the sole purpose of letting it lie over for a long period of time so we could hear from groups as to their points of view. I well recall the Attorney General saying months ago that there would be an amendment in this bill after the legislation was put forward. The Attorney General said to the public in the province of Alberta — I believe it was in your address in Lethbridge; it received wide publicity — that the legislation was going to be changed so there would be the assumption of fifty-fifty sharing. We were all aware of that. That was well known to all the groups throughout the province. And we come to the Legislature and that's the change, the basic change in the legislation.

What possible use can be gained, Mr. Speaker, from putting it over again? We're going to hear from the same important groups that came to us before. They are going to make the very arguments — the impractical arguments, as I will suggest and reiterate in a few moments, we've heard from the Leader of the Opposition and the Member for Spirit River-Fairview — that we must have black and white, a fifty-fifty split. Now we know that that is going to be the position of some groups. I do not believe that is the majority position of the citizens of this province who are aware of the legislation and have studied it.

What is going to be accomplished by laying this over for six months? All we are going to have is a rehash of the arguments we've heard time and time again; important arguments indeed, but surely the time has come to put this to rest, and let's get on with it. Surely the time has come for people who are sitting in Alberta looking at the situation to know how we feel about matrimonial property in this Legislature. We're not hiding anything; we're not taking people by surprise. There's nothing to be gained, Mr. Speaker, by putting this over. We've all met with the groups. We've all read the submissions, and we know it from start to finish. Let's get on with it. Let's get on with this job and pass the legislation.

Mr. Speaker, I would like to discuss why we should pass the legislation, why we should do it at this point in time, and how surprising it is to me — although it might be a fair play of grandstanding by the opposition, who perceive this great support in Alberta that's just dying to see this fifty-fifty split. Grandstanding is fair enough from the opposition point of view, and I look upon it as that to a certain extent. For those who submit that legislation should categorically require our courts to divide matrimonial property on a fifty-fifty basis, I say it will not work in a practical sense. It will be inequitable and will result in more strife and disharmony in Alberta than those who think what we are doing now is causing that very thing.

It will first cause individuals to look twice about entering into the marriage contract. Secondly, it will cause more common-law relationships than we have right now. Thirdly, it will take away a very fundamental and important concept that can only be determined by an impartial and fair judiciary; that is, a discretion which is fundamentally required in dealing with matrimonial property.

Now it's easy to sit back and say, hey, let's just divide everything equal-equal, and everything will come about; it sounds great, and let's do it. But if one who has any experience in dealing in matrimonial property were to be asked, can it survive on a fifty-fifty basis, they would clearly recognize the importance of judicial discretion.

Mr. Speaker, property divisions in court proceedings under matrimonial property basically come into three categories. The first category is no problem; that is, the situation where the disputants don't have anything and there's really nothing to share. I suppose a great majority of Albertans are unfortunately in that position. They get the divorce, the lady gets the children, and whatever estate is involved, a few dollars, go as can best be supported by the man's earnings in order to assist the woman in helping the children. In most cases, there's no property to worry about. It's a case of how you split one person's income so two families can survive, because the husband is now living separate and apart. The ex-wife has the children and many onerous responsibilities. How then can you divide one income two ways?

In some situations there may be a home. In any discretion the courts would invoke with respect to a home, it's clear-cut what they will do. Legislation or no legislation, the woman will stay in the home at least during the period she's bringing up the children, because they need a place to stay. The man will go into an apartment. They'll try to divide the income, and the home sits out there. That happens in 70 per cent of the cases. That is exactly the situation that arises.

Then there are the areas where there are some assets to be concerned about. Those aren't the situations of the rich, as the Member for Spirit River-Fairview seems to be so concerned about, with his paranoia of the rich that are everywhere in the province of Alberta. Those are a few cases. Probably those cases will always go to court, Mr. Speaker. Basically the cases we read about in the legal reports are when they're fighting about something. Those will be litigious; a certain percentage of matrimonial property cases will always be litigious. A bitterness is involved in matrimonial property disputes, as only one who is dealing in it from day to day can see, as are these lawyers who are going to make this great bonanza, which I'll talk about a little later in my address.

But when the hon. Member for Spirit River-Fairview tells us the story of the rich and the man who is going to go out and marry the blonde, and all those things, it reminds me of the story — if I can digress for just a couple of moments, Mr. Speaker — of the 70-year-old, very rich bachelor who finds this young girl, this 18-year-old lovely the member was mentioning. They get married. Shortly after the marriage, after their honeymoon, the man takes deathly sick. He's in the hospital in an oxygen tent. At that stage his lady comes up to him, and a note is passed under the oxygen tent to this young lady. It says, "Darling, don't worry about anything. I've solved all your problems. There'll be a bank account for you with a considerable amount of money in it. There's a car, a nice Cadillac, for you. You have a nice villa in Monte Carlo and our apartment in New York. Everything I have is yours, and please do not worry." The young lady whispers into the oxygen tent, "I feel so bad about everything that's happening. Is there anything I can do for you in your condition at the present time?" You hear this voice gasping out of the oxygen tent: "Yes, would you get your foot off the intake valve for the oxygen?" [interjections] That basically is what I think the hon. Member for Spirit River-Fairview is concerned about.

Let's talk in terms of a practical sense, Mr. Speaker, as to why judicial discretion is needed and why the 13 points set out in Section 8 are fundamentally important to this legislation. Let's talk of the case where matrimonial property division is coming up. The man has his business, just a little company, let's say a garage. He and another man have some shares in this little operating company, not a big situation, but an operating business. Then we are going to pass laws, as suggested by the opposition, that will make it black and white, fifty-fifty. Now the woman will have half the man's shares. Now that little garage is being operated by the wife, I suppose the husband, and his partner. That is just impractical. It's impractical from the woman's point of view; it's impractical from the business point of view. The AOC isn't going to look at that business and give them financing, nor will the ADC or whoever you want to talk about. It's just impractical to suggest that.

Mr. Speaker, in my experience in matrimonial property cases there's no such thing as two cases that are the same. There's no such thing as assets valued at the same amount. There's no such thing as identical circumstances. If we take away the judicial discretion that is so important in this case, we will end up with a ridiculous situation. I fear that certain members in our community — and I recall hearing this from a particular ladies' group — just don't trust our judiciary. I read it between the lines from the Leader of the Opposition and the Member for Spirit River-Fairview, although he denies it. There seems to be a basic distrust that some allegedly male chauvinistic judge is going to sit up there and immediately try, in whatever way possible, to harm the position of the women. That is just untrue, Mr. Speaker.

If one were to spend time examining recent judicial decisions — and in my view the worst one to examine is the Murdoch case, because that is not one that deals with the issues at hand. But just recently in a case that came out of Saskatchewan the Supreme Court of Canada clearly dealt not with looking at legislation, but in fairness and equity utilized their discretion and worked on a fifty-fifty sharing position, well recognizing the homemaking role of the woman: a brilliant judgment of the leading court in our land, not being bound by legislation with automatic black and white fifty-fifty splits, but dealing, as the presumption says and as the minister has so well said this afternoon, on what is just and equitable.

That's what courts are for. That is why they are there. If we for a moment will sit back and say, we have to say everything in here in black and white so the courts will understand it, we are alluding to ourselves a grandeur we do not possess. When we suggest for a moment that our courts of law are not dealing with subjective matters day in and day out, as the Member for Spirit River-Fairview suggests they are incapable of doing, and when the law is basically dealing in subjective dealings of human conduct and relationships, that is just not right.

Mr. Speaker, frankly I am surprised at the members of the opposition for one position they haven't stated today, as they try so hard to capture the feminine vote in the province of Alberta with their standing up, yelling fifty-fifty in their impractical way. What about retroactivity, Mr. Speaker? How often we have heard the members of the opposition dealing in terms of the discussion of retroactivity. How repugnant retroacti-

vity is as legislation. We heard it in the Indian caveat question when the members were leaping to their feet about retroactivity; we heard it I think on three or four other . . . I remember privity of contracts, leases retroactive. Remember how much we heard from the opposition on what we call the rather illusory, marshmallow areas of retroactivity?

But when we come to probably the most severe legislation I have seen in this Legislature, involving probably 500,000 Albertans in a severe retroactive way, where we are telling marital relations that have been here for years and entered under certain laws that we are now going to tell you how your property will be divided whether you like it or not — and with no judicial discretion, heaven forbid, is what they're saying — on the most acute form of retroactive legislation this province has ever seen, do we hear the opposition standing up saying, hey, that might be unfair? No, we don't hear that, not for a moment. They're too busy standing up saying, let's be fifty-fifty and let's forget about courts and create our own little system, because our wisdom is so marvellous. Mr. Speaker, I don't believe that's the case at all. I believe what is here in this legislation is reasonable.

I'm sure jurisprudence will build up from the point of view of this legislation. Of course there will, because of the very nature of legislation that involves matrimonial property. Nevertheless you have that because there are more cases before our courts today that involve matrimonial property than any other field of law. Go to the courthouse in Calgary on a Monday afternoon and see the line-up. Then go into the other courtrooms and see how many of these cases are in fact contested.

Sure, a body of law will grow out of here; and sure, we'll be back making amendments as we find this isn't perfect. But, Mr. Speaker, to suggest this is a great bonanza to the legal profession is sheer and utter nonsense. Surely there'll be cases before the courts, just as there are right now, but the courts can't stand any more matrimonial property cases than they have now. This is not going to be a licence for a bunch more cases.

In fact there are some very authentic and interesting provisions in this legislation which may reduce the number of cases that come before the courts. The provisions relating to examination of assets before trial — the requirement of the other party to discover their assets by affidavit is very important. Not only will the form come down as to the value of the assets, or what the parties have, but that will in many cases avoid the necessity for examinations for discovery and lengthy, costly proceedings. A very good provision that the minister has placed within this legislation.

Mr. Speaker, in conclusion I would merely like to say that to suggest this must go over for six months more is just grandstanding and is not needed. Let's get on with it, pass the legislation, and carry on from there. To suggest we have to have a fifty-fifty, black and white split, as has been suggested, is not only impractical but naive, Mr. Speaker. I submit that this amendment should be defeated by this Legislature.

MR. KIDD: Mr. Speaker, talking to the amendment, first of all I would like to say that I think this is a discussion in which we're all putting forth very sincere views. As far as I'm concerned personally, I don't care whether we have deferred sharing or judicial discretion. What I do care is whether something will be fair for my wife and maybe fair for me. I appreciate all the comments being made. It's a very important discussion. I very much appreciate the effort and thought that have been put into this subject by the Alberta Status of Women Action Committee.

With your permission, Mr. Speaker, I think the silver-tongued Member for Calgary Buffalo spoke rather widely on the amendment, and I hope you will give me the discretion to do that also. He spoke of a number of very important points, but he missed one extremely important one, again from the viewpoint of my thinking what would be proper for my wife. That very important point is being discussed by the women. If I may read from their words very briefly:

> The major criticism of deferred sharing is that it is difficult to conceptualize and to enact as law. The Legislature would have to make a number of hard choices before the law could be passed. For example, they would have to determine whether they would accept the Institute's recommendations that previously owned property would be excluded, but that inflationary gains should be included.

We've done that in this legislation. But the last sentence:

> In regard to debts, they would have to make the choice as to whether or not a person should be allowed to have a negative estate.

Bill 20 talks about acquired property. Very important. You know, Mr. Speaker, I worry about that for my wife, because anyone who has so little economic acumen that he would come into the Legislature and accept the monetary rewards we do — boy, he has to be very suspect as to someone who is looking after his wife.

So in that regard, I think that's an extremely important point that has been missed. I think it's extremely important for the women. I don't know whether my statistics are correct, but I'll subject them to anyone's examination. I think I can be fairly sure that significantly more than 50 per cent of marriages break up because of money — not because they have too much, but because of money problems.

I have an unfortunate example. Maybe it's easy to do, but I know a gentleman and a lady who broke up and he was $200,000 in debt. Now under deferred sharing, if you're fair on it and it's rigid, the woman would be saddled with a $100,000 debt. I don't think that's fair. I don't want my wife to be saddled with any of my debts. That is something you would have to accept if you accepted deferred sharing as I see it. I stand to be corrected. There are a number of other things, but here in this bill we are giving judicial discretion for fairness to the woman. Fairness. I think that is extremely important, and I cannot get that point across in deferred sharing. I don't know how you get it across. But I do not want my wife to be saddled with half my debts.

Thank you, Mr. Speaker.

MRS. CHICHAK: Mr. Speaker, I've waited long this afternoon to give many members the opportunity to speak, to have the benefit of their views, and then to put forward mine. The amendment put forward by the hon. Member for Spirit River-Fairview is one that I've thought about — perhaps the idea of it — for

some time prior to the to the bringing of the amendment. I've thought about it because the proposition was put forward to me by various groups and individuals from two sides, one for the idea of delaying the passage of this legislation, and the other for putting the legislation forward and passing it at the earliest opportunity. So I have looked at it from two aspects, and came to the conclusion prior to this amendment, and my view is again confirmed, that the pressure is for legislation which might at least bring about a commencement of equity in human relations, an equity for human beings as they are dealt with either in or outside the courts, with fairness of balance.

I perhaps share the concern particularly expressed by many women's groups, individual women and, I have to say, on the part of many individual men who have been concerned about the inequities that many women in marriage breakdown have experienced. Current legislation does not allow the judiciary the capability of taking into consideration certain aspects of a marriage relationship, the assets which have been built up over the years; and precludes the judiciary from being able to make such determinations as they justly would feel more appropriate, balanced, and equitable.

But I also share the concern expressed — and I think it's a very real thing — that there is a great deal of distrust in the manner in which members of the judiciary from time to time can make conclusions insofar as how they view a case that is before them. That is not to say I take the position of whether they are right or wrong, but I think we must recognize that this is the feeling of many citizens, that there is not the equity determined that ought to be. Whether it's a lack of understanding, that perhaps it is the law that precludes that kind of ability or not, is irrelevant. I think it is important to recognize that there is this distrust. I think it's important to attempt to write our legislation to convey the kind of intent or spirit that is desired, to convey that at the time when we have a major rewriting of the legislation in this province.

I have examined the clause in the legislation before us with respect to the principle and the presumption of equal sharing. Although it needs to be said as it is under Section 7, I would like to ask the Attorney General perhaps to examine further and consider if the clause can be strengthened, set out more clearly and prominently. I know there needs to be flexibility to take into account unusual circumstances. But I wonder if that could not be achieved by setting out more clearly the presumption of equal sharing in an independent section, to give a greater degree of understanding and acceptance that would be clear to the judiciary and to all citizens alike in fact what the intent of this legislation really is.

With respect to the provisions for guided judicial discretion, I would like to say I support the sections that have been set out in this legislation. I think that without the direction to the judiciary we would find that too many areas might be overlooked and too many areas might not be prominently put forward when a case comes before the courts. Therefore an end result which would display balance and justice would really not be achieved, if justice can be obtained in the matter of the division of assets following a breakdown of marriage.

Again I would like to propose to the Attorney General that I think it is important for him to make representations which might bring about an influence in the appointment of more women lawyers to the judiciary. Certainly it is not an answer to the many problems we face or the inequities experienced, but I think such a move certainly would serve to bring about a greater balance of exchange of views and a change of attitudes that have been long held by society as a whole, by both men and women as to the superiority or inferiority of one sex or the other. I think there needs to be a change of attitude in a whole host of areas, not only in the matter of marriage breakdown. I think certainly a move in this direction would have some significantly reaching effects to improve the whole aspect of men and women, and their contributions and equality in the human race as such.

With respect to the guided judicial discretion sections of the bill, I see those as being helpful in a marriage breakdown. The spouses would have some direction of all the elements taken into consideration should the matter go to litigation. I hope that over a period of time precedents will be established, and I think the courts would strive very hard to establish a real equity, as it ought to be. I think that once such precedents are established, after a period of time there would be an indication and a direction that couples who were involved in the matter of determination of their assets would in all probability view that the determination under litigation would bring about a more equal balance, an equal split. After the initial period of time where the courts might be tested to see how they would view our legislation, I could envisage that many couples would simply determine or conclude that it would be in their interest to attempt to have a settlement outside the courts.

However, should that not be the case, it would seem to me that for the first time in this province the courts will take into consideration the real contribution a wife makes to a marriage partnership outside of any monetary consideration; that is, for the first time it will be recognized that a woman does not have to be out working day to day, competing for a recognition of her contribution on a dollar for dollar basis. I think that situation is archaic, and the quicker we can put that to rest the better off society will be in the matter of family unity. Perhaps this direction and clarification might even considerably aid couples who have difficulties in their marriage to have a better understanding of what the concept of marriage might be and to resolve their problems without having the trauma of a complete break and the division which might ultimately result if there are any assets involved.

I think those who suffer most in a marriage breakdown are the children, if there are children. We would hope that this legislation might provide the kind of guideline or assistance that will minimize the real suffering the children would wind up with where there is a bitter disagreement as to who is entitled to what aspect of the assets: who is entitled to one spoon, to one fork or knife, or whatever the case may be.

I would hope that we proceed with the passage of this legislation, although I have been approached by one of the women's groups to ask that we delay until fall before we proceed further with second reading. I think I have had as much representation asking that we not delay. Many couples are now in a very diffi-

cult situation of marriage breakdown, are holding back on the procedure of completing the termination of their marriage and the determination as to what they are entitled to, and hope the sooner we can put this legislation through, it would resolve their problems.

At the moment there are very many cases of women who come from rural areas, and the result is a marriage breakdown. The only assets they have are their farms. Now those are of substantial value, but how do you take half a farm when you are booted out of your house and home? You're not given any financial support, because of course there's always the argument that when you're on a farm your income is not at regular intervals and therefore you have nothing to support from. Many of these women wind up on social assistance rolls. The estates are substantial, but the dollars are not there.

I think it's important that we have this legislation set in place so these women can, in some way, have a fair determination of what they are entitled to, and hopefully this will be equitable. I certainly support that we move ahead with the bill and defeat the amendment.

DR. WEBBER: Mr. Speaker, I want to make some very brief remarks on this motion. I hope you'll provide me with the opportunity to diverge a bit from the amendment of the hon. Member for Spirit River-Fairview. Certainly this is a very important and significant piece of legislation. I think I should take the opportunity to reflect the views of my constituents on this. I hadn't planned to get up today until I heard the hon. Member for Spirit River-Fairview talk about his polls. I'll refer to that in a moment.

I would like to congratulate the Attorney General for bringing this legislation in, and providing us with a succinct background and explanation of the principles today.

Like all members in this Legislature, I have received numerous submissions with respect to Bill 102 from last fall. The submissions I've received generally have been concerned with three things: one, the lack of a fifty-fifty sharing concept; secondly, the importance of recognizing the non-financial contribution of spouses; and thirdly, with regard to the conduct-of-the-spouse section being removed.

Mr. Speaker, I received submissions from organized groups around the province, such as the Alberta Status of Women Action Committee. Most of these submissions indicated their preference for preferred sharing, except for one submission, which I found interesting. I think it's from a credible group, a group of women lawyers in Calgary. I know some members in the House will argue with me about the credibility of lawyers, but I think this particular group is credible. They base their submission primarily on their experience in the field of matrimonial law, and submit that the judicial discretion proposed in Bill 102 is preferable to the deferred sharing proposal which has been suggested as an alternative. They indicate this is favored by almost all the women lawyers in Calgary.

Now I don't know how many women lawyers there are in Calgary, Mr. Speaker

AN HON. MEMBER: Three.

DR. WEBBER: . . . whether it reflects a group of just a few or quite a few. But in view of their experience in the field of matrimonial law, I would treat this with a fair amount of credibility.

Mr. Speaker, I've also contacted a number of people to try to get a handle on the concepts involved with matrimonial property division and deferred sharing versus judicial discretion. The fact that the Institute of Law Research and Reform split four to three made me feel a little better in the fact of the difficulty to get a handle on it.

However, at the two pre-session meetings I had in the constituency of Calgary Bow we did take a poll, as the hon. Member for Spirit River-Fairview did. I know the hon. member is a very persuasive gentleman, but I didn't know he was as persuasive as the poll results indicate. If I recall, he indicated that the result was some 370 to 32, which is tremendous. This was in favor of deferred sharing.

Well, I'm not that persuasive, Mr. Speaker. I coolly presented the options to my constituents, some 80 to 100 individuals at two meetings. There was a member of the Alberta Status of Women Action Committee in attendance at one of those meetings, so I was very careful to try not to bias my presentation. The result of the vote at those two meetings was all in favor of judicial discretion with guidance, with one person in favor of deferred sharing. So this is in contrast to the poll taken by the Member for Spirit River-Fairview.

So my main purpose in rising today, Mr. Speaker, was to indicate the concerns of the submissions presented to me, as well as reflecting how my constituents feel about this piece of legislation. Therefore I feel very comfortable in supporting Bill 20, as I feel I am voting as the majority of my constituents would. I personally feel this is the right approach to take.

MR. SPEAKER: Are you ready for the question on the amendment?

[Motion lost]

MR. KING: Mr. Speaker, as someone who has a considerable, long-standing interest in this, and as someone who has presented to one of my colleagues that I can restrict myself to two minutes, I would like to do that this afternoon and express a concern I have about the bill.

I would like to say that marriage is something about which many myths, conventions, and much romanticism has developed. Those myths and conventions are a serious impediment to our consideration of the property . . . [interjections] Does the time I take responding to hecklers count? These things are a serious impediment to whatever it is that we try to do in resolving marriages which have broken down.

For the great majority of people, marriage is non-economic in its essence. For some, as the hon. Member for Banff said, it is also uneconomic. It may be that that contributes substantially to marriage breakdown.

It seems clear to me, however, and this is what I would like to put on the record, that in our society today for the great majority of people who are entering into marriage, it begins as a romantic equality, the anticipation of it at least, as you enter it. Mr. Speak-

er, all these things militate against Section 31(7) of the act. I would simply like to say that while it is my intention to vote in favor of the principle of the bill, it is also my intention to propose an amendment to my colleagues to Section 31(7), which I hope will find favor with them. If it does not, then I would say that Section 31(7) as it presently stands is a very significant impediment against my voting in favor of the principle of the bill, and that my voting in favor of the principle at second reading should not be taken to mean that I would necessarily vote in favor of it at third reading.

MR. FOSTER: There's no 31(7), Dave.

[Motion carried; Bill 20 read a second time]

MR. HYNDMAN: Mr. Speaker, as to tonight's business, we'll begin at 8 o'clock with government motions 15, 17, 18, 19, 21, and then back to No. 14 on the goals of basic education; following which we'd proceed to second reading of private bills, all six of them on page 5.

[The House recessed at 5:30 p.m. and resumed at 8 p.m.]

head: **GOVERNMENT MOTIONS**

15. Moved by Mr. Hyndman:
Be it resolved that *Standing Orders* be amended
(a) by repealing Standing Order 46(1)(g) and substituting: (g) the Offices of the Auditor General and Ombudsman;
(b) by adding the following after Standing Order 46:
46.1 (1) The Select Standing Committee on the Offices of the Auditor General and Ombudsman shall consist of nine members, one of whom shall be chairman and another of whom shall be deputy chairman.
(2) In the absence of the chairman and the deputy chairman at a meeting of the committee, the committee shall appoint a member to preside at that meeting.
(3) The committee may, without leave of the Assembly, sit during a period when the Assembly is prorogued.
And be it further resolved that the above amendments shall come into force on the day upon which Bill 40 comes into force as an act.

MR. HYNDMAN: Mr. Speaker, this motion is a little different from the procedure recommended by the Select Committee on the Ombudsman. It recommended that the Ombudsman be able to report to the Standing Committee on Law and Regulations. The government felt that that committee, comprising 29 people, was probably too large for the Ombudsman to have convenient and quick access to. Therefore this proposal is made, and would then suffice for the offices of both the Auditor General and the Ombudsman.

The motion, of course, does link somewhat to Government Motion No. 17 and to Bill 40, which is on the Order Paper this evening.

[Motion carried]

17. Moved by Mr. Hyndman:
Be it resolved that effective upon the coming into force of Bill 40 as an act the following members be appointed to the Select Standing Committee on the Offices of the Auditor General and Ombudsman: Mr. Gogo, Mr. Johnston, Mr. Little, Mr. Mandeville, Mr. McCrae, Mr. Notley, Mr. Planche, Mr. Trynchy, Mr. Young; and be it further resolved that Mr. Trynchy be chairman and Mr. Planche be deputy chairman of the committee.

MR. HYNDMAN: This motion, Mr. Speaker, merely reconfirms the motion which was moved and passed on the opening day of the spring session.

[Motion carried]

18. Moved by Mr.Hyndman:
Be it resolved that the appointment of Mr. Chambers to the Select Standing Committee on the Alberta Heritage Savings Trust Fund Act be terminated and that Mr. Appleby be appointed to that committee.

MR. HYNDMAN: Mr. Speaker, I believe this motion is self-explanatory.

[Motion carried]

19. Moved by Mr. Hyndman:
Be it resolved that when the Assembly adjourns for the summer recess, it shall stand adjourned until such time and date in 1978 as is determined by Mr. Speaker after consultation with the Lieutenant Governor in Council.

MR. HYNDMAN: Mr. Speaker, I believe this motion provides a useful and desirable degree of flexibility with respect to the opening date for the fall sessions. This kind of motion will be moved by the government in every future year.

DR. BUCK: Mr. Speaker, before we call the motion, I'm glad to hear the hon. Government House Leader say this is a motion we will be presenting every year, because I was going to say it seems to be breaking tradition a little. I realize we may need this type of flexibility, in that there may not be a federal election this fall and there may be one in June. That may give us the flexibility we in this Legislature need in case we're going to call an election this fall.

I would just like to say to the Government House Leader and the government that at least we know we have our options available if we happen to call an election this fall, and I'd like to say: we'll be ready.

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

HON. MEMBERS: Agreed.

MR. HYNDMAN: Mr. Speaker, I hadn't thought of the eventuality to which the hon. gentleman refers, but the federal election could be a factor in the sense that if it were on October 18 of this year, for example, and the hon. Member for Clover Bar were giving a major

speech that day, we wouldn't want to have a conflict. I realize that any remarks he might have to make would probably deserve larger headlines than any federal election result, but we wouldn't want to have that happen.

[Motion carried]

21. Moved by Mr. McCrae:
Be it resolved that this Assembly recommend the Lieutenant Governor in Council appoint Douglas William Rogers as Auditor General of Alberta for the period ending on March 31, 1986.

MR. McCRAE: Mr. Speaker, it is my pleasure tonight to propose this motion to this Assembly on behalf of the Standing Committee on the Auditor General. Members will recall that in 1977 the Legislature passed The Auditor General Act, which created the office of Auditor General. This spring, pursuant to that act, we established a standing committee to recommend a person for that office.

Mr. Speaker, this office is of great importance to Albertans. Members are aware of the growth of government in response to the growing complexity of modern life, our increasing population, and our expanded and new social programs to meet our commitment to bring good government to our citizens. Because of this complexity and growth, our government felt it important to establish a position of independence and authority to examine whether government has systems in place to measure the economy, effectiveness, and efficiency of our programs; if it does not have those programs, to comment on that fact where such systems, in the view of the Auditor General, would be appropriate. Members of the Assembly and the people of Alberta will thereby be assured of the proper collection, management, and use of the people's money.

Mr. Speaker, the independence of this office is assured because the appointment is by Lieutenant Governor in Council on the recommendation of the Legislative Assembly, and because the salary and annual budget of the office are established by the Assembly on the recommendation of the select standing committee.

Mr. Speaker, the committee is recommending Mr. Douglas William (Bill) Rogers, our previous Provincial Auditor, for a term ending on March 31, 1986. The committee has recommended this particular term because the legislation provides for an appointment of up to eight years, and because we felt the term should end and a new one begin concurrent with the fiscal year end for government accounts. Additionally, March 31, 1986, will coincide very closely with Mr. Rogers' normal retirement date.

Mr. Rogers was born in Birmingham, England, in 1921 and served with the Royal Air Force during the period 1940 to 1946, spending part of that time in Edmonton. In 1948 he had the foresight to marry an Edmonton girl, Miss Beatrice MacLean. That same year he joined the office of the Provincial Auditor and in 1952 was admitted to membership of the Institute of Chartered Accountants of Alberta. Since that time he has worked in various capacities in the Provincial Auditor's office, becoming Provincial Auditor in 1974 and Acting Auditor General this year on April 1.

In the view of the committee, Mr. Rogers' experience has qualified him most appropriately for the position of Auditor General. He is familiar with our government accounting system and well known to all of us because of his work with the Public Accounts Committee of the Legislative Assembly and its annual review of the previous year's expenditures. Additionally, he very materially assisted counsel and government in the preparation of The Auditor General Act.

Mr. Speaker, I am pleased to recommend him to the Assembly as our first Alberta Auditor General.

DR. BUCK: Mr. Speaker, I would like to speak in favor of the motion. The man who has been chosen knows the budgetary process well. But most important, he knows the mechanisms of government and the democratic and parliamentary processes well.

Mr. Speaker, the challenge to the new Auditor General, in light of the fact that he has many years of tenure, is to show his independence. I think the people of Alberta will be looking upon the new Auditor General to act as an ombudsman of finance, and I'm sure that this is what we in this Legislature expect of him. Most important, that's what the people of Alberta will expect of the new Auditor General.

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

HON. MEMBERS: Agreed.

MR. McCRAE: In closing debate, Mr. Speaker, I am sure, as the hon. member opposite said, that the new appointee will do a very admirable job. The people of Canada will be watching him to see that he does the fine job we expect of him.

I note that he and his charming wife are in the Speaker's gallery and would ask that he stand and be recognized by the Assembly.

[Motion carried]

14. Moved by Mr. Koziak:
Be it resolved that The Goals of Basic Education for Alberta, tabled in this Assembly by the Minister of Education on Monday, April 3, 1978, as Sessional Paper 99/78, be approved.

[Adjourned debate May 11: Mr. Tesolin]

MR. TESOLIN: Mr. Speaker, it gives me great pleasure to participate in the discussion of Government Motion No. 14. As members are aware, my interest in education is more involved than some others'. Initially I would like to indicate that the Curriculum Policies Board considers itself a body with an independent mind, with divergent ideas, yet one with a goal to contribute suggestions that will make Alberta education equal or superior to any in the world.

Therefore, Mr. Speaker, I found the questioning regarding Premier/board meetings somewhat surprising. Naturally the board is interested in such a meeting. But only after we have formulated policies and had ample opportunity to consider the broad topic of education would we be eager to meet with the Premier for an exchange of ideas. The urgency of such a meeting does not yet exist; however, as a member of the board, I look forward to this exchange

whenever the time is right.

Mr. Speaker, any analysis of education should be preceded by an examination of its historical perspective. In a society such as ours, which is more liable to change, those who have historical perspective can become aware of the transitions taking place, of which they are a part. Let me illustrate this point by making a brief survey of some of the educational aims and ideals which have established themselves in western European history. All these theories have in common the fact that they are trying to transform what exists into something higher and better.

First, let us consider the Greek ideal. There are two main features of the Greek heritage, the soldier and the bard. The soldier, and later the athlete, is revealed as a man of courage, able to serve, yet wishing to excel in deed and physical beauty. The heritage of the bard shows itself in the importance of music, gymnastics, dance, and drama. To these two ancestries may be later added a third, excellence in counsel: the virtues of the politician and the ability to express and defend a point of view, admittedly Greek at the time.

In the hands of men like Socrates, Plato, and Aristotle, the notions of justice, simplicity, moderation, harmony, and good faith become more explicit. The good man is identified with the good citizen, and the good in itself is associated with the beautiful. Moral goodness becomes one of the established principles of Greek civilization, and this goodness is thought of as an expression of human nature. It is the harmonious functioning of all the elements in the human personality. In this, moderation in all things is ideal. The later Roman ideal of the loyal and brave man is simpler. However, a list of the cardinal virtues of the ancient world of Greece and Rome might read something like this: justice, fortitude, prudence, temperance, and individual pride.

During the Middle Ages, society was clearly divided into three classes of people, according to which there were three ways of training: grammar schools and universities for clerical professions, courtly and military training for the warriors, and guild apprenticeship for the craftsmen. Later on, the Renaissance and industrialization and urbanization of western Europe caused the increase of social mobility and made the inherited educational system inadequate to new social needs. Education was adapted to the training of individual men as abstract entities by developing their faculties through formal, liberal education. The working class organized into trade unions and demanded its share of political power in secondary and higher training. But these newcomers were not attracted by the traditional classical curriculum and insisted on a scientific and technical education adapted to the education needs of the time.

Historically, if we may jump to modern times, through the post-war era, mankind has treated education as an involving process, each society building on and adding to the system which preceded it. I believe it is essential that we keep history in mind when we are discussing the aims of education for Albertans.

Now that I've had a short summary of the history of education, perhaps I might offer my own definition of education. Mr. Speaker, it has occurred to me that education is the activity that everyone is engaged in while awake. We are supposedly having experience while awake, and experience, by general consent, is the great teacher. Of course, it is sometimes alleged that certain individuals don't learn from experience, but in that case it is doubtful they are sufficiently awake.

Mr. Speaker, to use Henri Bergson's image, a living being is like a rolling snowball, gathering up in its path as it moves along and thus growing and never perfectly repeating its post status. In the life experience education analogy, schooling can be likened to providing the snow and the motive push to make the snowball roll. You will note that two factors are involved here: the basic stuff, which is the snow, the ball, and the force to make it grow. I suggest that we might just as easily call these two components "teaching" and "learning". Teaching is the push and learning is the snow. The role of institutional education is to teach the skills of secular society so that the snowball will continue to grow, or at the very least not melt.

Mr. Speaker, I welcome the statement on the goals of basic education. I believe, as do many in our society, that the role of schooling, or to put it another way, the reason for the existence of schools is to impart learning and that mainly what ought to be taught and learned is useful, practical knowledge. I believe this to be the priority of institutional education for Albertans. For instance, communication has to be the main objective of our educational system. Graduates must be able to write, to understand the printed word, and to articulate what they know. Surely we are not asking too much of the system when we demand that children be able to read and write and then be able to apply these skills in a useful way.

Mr. Speaker, it is also my belief that schooling and educational systems should not be so willing to accept responsibility for solving all the problems of the young. Schools and institutions cannot solve all the problems of living. The best that schooling can do is inculcate in the individual the desire to achieve to the limit of his or her capability.

The role of schooling, then, is to teach and to learn. To accomplish this there are dedicated teachers, but we also need motivated students who will achieve to a high standard. There is nothing wrong with excellence, Mr. Speaker. I suggest that the role of education and schooling in our society is to achieve excellence, not mediocrity.

Mr. Speaker, going to school is an opportunity and ought to be regarded as such by all students. School attendance can be made compulsory; school learning cannot be. Some of our classrooms contain youth who have no wish to be there, whose aim is not to learn but to escape from learning. Such a classroom is not a favorable learning environment. The remedy is obvious. No upper grade or high school young person ought to be allowed in class unless he wants to take advantage of the opportunity it offers. Keeping him there under compulsion will do him no good and will do harm to others in the same environment. Surely we have the wit to recognize the source of this problem. Now we need the courage to correct it.

Mr. Speaker, there are difficulties in Alberta education today, and the fundamental cause is our confusion concerning the central purpose of our activities. In the past, schools have been far too willing to accept responsibility for solving all the problems of young people and meeting all their immediate needs.

Schools are for learning, and the kind of learning on which schools should concentrate most of their efforts is the command of useful knowledge. Knowledge is a structure of relationships among concepts and must be built by the learner himself as he seeks understanding of the information he has received. Affective experiences are important by-products of all human experience, but they seldom are, nor should they be, the principal targets of our educational efforts. We should be much more concerned with moral experiences or education than with affective education.

Mr. Speaker, perhaps too often we interchange the terms "intellectual skills" and "educational goals". Broadly, general intellectual skills are mainly hypothetical constructs which are very difficult to realize in real life. Let us remember, though, that wisdom depends primarily on knowledge and secondarily on experience.

I wish to repeat what I've said many times before: schools should not accept responsibility for the learning success of every pupil, since that success depends so much on one's home in a societal context, plus, and even more importantly, on the individual's own efforts. Individual learning is facilitated by group instruction, but learning is a personal activity each student must carry on for himself. Schools ought to be held accountable for providing a good learning environment, and this learning environment should consist of capable, enthusiastic teachers; sufficient and appropriate learning materials; acknowledgement of achievement, whereby achievement is an important personal goal; and a population of willing workers.

Mr. Speaker, if our basic educational system persists in trying to do too many things it is not designed and equipped to do well, things that in some cases cannot be done at all, it will show up badly when called to account. Historically and presently, schools are designed to cultivate cognitive competence to foster the learning of useful knowledge. If they keep this as their primary aim and do not allow other influences to sabotage the learning process, they will give an excellent accounting of their effectiveness and worth.

Mr. Speaker, I feel this instrument. The Goals of Basic Education for Alberta, provides schools with opportunities to do what I have suggested. Also it is not prescriptive, and we must avoid being too prescriptive. But I would like to impress upon legislative members that if the Legislature approves the body of goals, I would ask that the professionals in the field be allowed to take this as their direction and do the job.

Let us now endeavor to complete the curriculum changes required in the subject areas. Then, in the name of teacher morale and continuous professional growth, I would reiterate that the professionals go forth and, using this as a guide, do the job for which they were trained and can do very well.

MRS. CHICHAK: Mr. Speaker, the hon. Member for Lac La Biche-McMurray did a very fine and eloquent job delivering his remarks. I endorse whole-heartedly the many very useful points he made in his contribution to this debate. My remarks will be perhaps somewhat different, somewhat more relaxed, in that I will try to reflect very briefly on a few items I wish to put forward; some perhaps have already been expressed in a different way.

I would like say I endorse the division of the goals of education into the two segments, the goals of schooling and the goals of education. With the changing times, I think it needs to be recognized that each has a very significant and different function and role to play. A great deal of emphasis, and perhaps a great deal of stress, have been placed on the professional body that attempts to cope with the young society, perhaps too great a demand on what is expected of them. I think this is a very proper time to have a close examination of what ought to be the role of the professional teacher and how much ought to be expected. How much responsibility should be taken out of the home and out of the hands of various societal agencies that in the past have had a significant role to play in the education of both young people and adults?

In having put the motion forward as the hon. Minister of Education did, in considering that there were these two very distinct and separate roles, I can see that perhaps we can bring back the significance and recognition that the parent and the family have a vital responsibility in the education and upbringing of their young and that there are other agencies in society, not only the church but every agency that to this date has been formed to try to cope with the changing times and changing needs.

I recognize that although the goals are a framework within which we ought to attempt to work, to move ahead, to progress, they must, without disturbing the basic principle that is attempted to be established, have the necessary flexibility to continue to change as times change, as our attitudes and our needs change. I hope it will be recognized — I'm sure it will — that there is also a need for uniformity of interpretation of those goals, not only the goals of schooling but the goals of education, uniformity as to what is expected within each framework and the role each agency, including the parent, must play. It is certainly hoped that somehow we can develop a very clear understanding and that no one agency feels threatened if another appears to embark on an area of service that it has understood or interpreted to have taken upon itself.

I think the time to examine here and the perhaps stressful period we may have been going through currently — and I say "stressful" because I think some of the agencies, perhaps the professions, have felt threatened, that they personally were being attacked as having been inadequate and not responsible enough in the role they were required to play. I don't think that interpretation has been accurate. Time and again we have acknowledged the real contribution that particularly the teaching profession has given and the dedication and commitment with which all those in that profession have worked in an attempt to fill the role society appears to have placed on it. I think it's time to recognize that parents, legislators, and society as a whole need to stand in front of a mirror and say, have I abdicated my responsibility in this very important area and asked someone else to carry the ball?

Mr. Speaker, I would like to suggest that in developing a direction for uniformity of interpretation and the implementation of the goals of both schooling and education, the minister consider developing a

mechanism by which there can be some degree of measuring over a long period of time the extent to which these goals are being realized in both divisions, not only in the area of how well the goals of schooling are being achieved and whether the role and function is accurately being interpreted and implemented but, as well, how closely the goals of education are meeting the real needs of our society.

While we may put in place very high ideals in the form of goals, I think we need to examine how the curricula are developed? Have we taken too broad an approach in the classroom in what we have asked our young people to undertake in their studies? Have we provided so much liberalism in what they may choose to learn? Have we kept in place the essential directives and guidelines, to give these young impressionable minds some sense of knowledge of what they ought to consider an essential area and a priority of study that would truly help them cope with life as they are to meet it in future years? In our schools have we made it so easy to abdicate the responsibility of undertaking difficult tasks, those which require real effort, concentration, and initiative? Have we put in place so many options that we've forgotten to tell them what the core subjects of real necessity are? I think it is essential that the hon. minister direct his advisory boards to take these points into consideration when they are reviewing or studying the curriculum, and then give some concrete proposals to him.

A good number of teachers have said to me that when we ultimately put forward a framework to which all agencies will be requested to direct their attention and work, they hope we will not remove altogether the mechanism of testing at different levels, to require young students to recognize that there must be a real emphasis on high standards of achievement and that simply taking as many options as one can to get around the amount of work and academic background that may be necessary would be the easy way out. I think a testing mechanism at the grade levels, as the hon. minister has set in place, is essential. I hope that would not be abandoned in the final determination of the direction in which we will move.

I think the hon. Premier stressed the priority of what we might refer to as number one under goals of schooling: the need to develop competency in reading, writing, mathematics, communication, and listening. Too often, because we have said it is time to go back to the basics, our society generally has interpreted that to mean go back to some archaic studies and procedures that do not apply today. We need to recognize that these areas, these tools, are essential regardless of what direction we go or what career we choose in our lifetime. If we cannot read, if we cannot write, if we cannot communicate, we really will not progress very far. I think that if we reflect on our own experiences, perhaps many of us will find occasions when we come very short of communicating what we really wish to. I know I have that experience from time to time. I'm sure many others would join me if they were truthful about themselves, and I know that many would be.

We must continue to stress another important factor, and I know we have in recent years; that is, the agency of the parents, parental interest and involvement of parents in the education of their children, whether it be directly with school programming, in their home, or through other agencies. It becomes evident very quickly where the parents have little interest or concern in the education of their children, how they are progressing, what they are involved in in the classroom and at almost any part of the day. I find a lot of young people will say to me that they really enjoy talking with their parents. You find very little in the way of problems in that home because of that communication, because the parents are interested in how they are progressing in their school or extra-curricular activities. There is a healthy family; there are healthy children.

I think these goals of schooling and education, in part, attempt perhaps to bring to the fore a realization that it has to be a total involvement. Certainly these goals make a greater ability to achieve that. Today we have many educational programs for adults. I wonder if we have ever related the real need for those many programs as being partly a result of inadequate consideration of many of those elements or directives that are now included in the goals of schooling and the goals of education. I'm sure they were always there. But I think many of them were dormant, were not being lived, were not being used.

It speaks well for us to reflect, to study, to think about. I hope that some day, a decade or so down the road, we or those who will be here after us will say: you know, we really need to examine where we're heading with our education, with our young people; are our institutions giving us what we need to develop healthy people for the kind of progress, the kind of society we have today and will have in the future?

Mr. Speaker, many very worth-while suggestions have been made to the Minister of Education. Some have stressed certain priorities more than others; some have compared our system today to those of yesterday and tomorrow. I think that is how it should be. We should not dwell on yesterday, but we should recognize that yesterday gave us experiences on which we can reflect and say, we should do better for tomorrow.

Thank you, Mr. Speaker.

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

HON. MEMBERS: Agreed.

MR. KOZIAK: Mr. Speaker, during the course of debate many hon. members contributed. I want to respond to concerns raised by the hon. Member for Spirit River-Fairview during his contribution to the debate on this resolution. He expressed a concern that the word "constructive" replaced the word "critical" in one of the goals of schooling, and that replacement took place between the goals recommended by the Curriculum Policies Board and the goals set out in the sessional statement forming part of this resolution. The third goal suggested we should strive toward developing the learning skills of finding, organizing, analysing, and applying information in a critical and objective manner. As hon. members will note, the sessional paper which forms part of this resolution replaces the word "critical" with "constructive".

There's a reason for that, Mr. Speaker. Granted, the interpretation of "critical" given by the hon. Member for Spirit River-Fairview is often used. I

looked at *The Concise Oxford Dictionary,* however, and couldn't find it. There, the more common definition of the word "critical" appears: censorious, fault-finding; skilful at or engaged in criticism; providing textual criticism. As I read this, it reminds me of the hon. Member for Spirit River-Fairview.

We have to be careful when we choose our words as we set goals, because we realize that in the English language words that had one meaning sometimes take on another meaning. In this case the meaning I have read is the one most commonly used for the word "critical".

As an example of the type of experience we have with the language, we've seen in the recent two or three years that when we speak of increases in budgets that are somewhat less than expected by the recipient of the grant, that is translated to "cutback". Cutback no longer means a reduction in the base; cutback now means a reduction in the rate of increase. So we have to use words in the meaning attributed to those words in this day and age.

Concern was also expressed by that hon. member about the inclusion of the word "tradition" in the goals of education, when we referred to the ability to respond to changes that occur in personal life and society. There was real reason for including tradition in that goal, Mr. Speaker. We were concerned that in responding to change we did not want our students and the fullfledged members of our society today to be like blades of grass in the wind, responding with every change in direction. With that feeling for tradition, the ability to change or not is then an ability that the student acquires. I don't think we should be responding to change just because it happens, in the sense that a blade of grass responds to the pressure of the wind upon it.

Some concern was also expressed about the passiveness of the phrase in the broader goals of education dealing with cultural and recreational pursuits. I do not interpret the goal as it appears in the sessional paper as being passive. I myself feel that the eighth goal as stated in the Curriculum Policies Board recommendation, to "Develop an interest in participating in cultural pursuits of creative expression and appreciation", is unduly limited; and that the goal of developing an interest in cultural and recreational pursuits — "recreational" is missing from the other recommendation — is broader and does not restrict that interest to a passive interest, but should in fact encourage active participation in the field of recreation and in cultural pursuits.

The hon. Leader of the Opposition expressed concern and fear with respect to the 10 goals of education, that in making it everyone's responsibility it may ultimately be no one's responsibility. I think we should place this in the proper context. First of all we must appreciate that a child between grades 1 and 12 — not prior to that period of time, but just in those 12 grades — spends 12.5 per cent of his or her time in school, only 12.5 per cent, and 87.5 per cent is spent elsewhere. So we can't expect in that 12.5 per cent to be able to accomplish everything without the support of those agencies, of which the parents and the home are most responsible, as set out in the sessional paper.

It was the feeling of the hon. Member for Medicine Hat-Redcliff that the family is the most important cornerstone of society. I agree fully. I think it is the cornerstone in society, and the family has that role. The hon. Leader of the Opposition expressed the fear that nobody will do it if we spread this out over these agencies. That is not the case, Mr. Speaker, because that is the role of the family; that is the role of the parent. It is the parents' role to make sure those goals are in fact accomplished, in combination with the efforts of the school and other agencies. But the overall responsibility must rest with the family. Surely we haven't reached the point in our society where people can bring children onto this earth and then claim no further responsibility for them.

Of course the argument was put that we have many single-parent families. With the large degree of marital breakdown we find ourselves in this position. The fact there has been a marital breakdown doesn't eliminate the two parents. The fact there is a judicial separation or a divorce does not exclude or eliminate the responsibility of each parent to those children. That responsibility must continue. So the argument that we have a great number of single-parent families just doesn't hold water. Not only that, Mr. Speaker, I think it defames many single-parent families. There are many situations where one parent is accomplishing a positive role with respect to a child while in many homes where there are two parents that role isn't being accomplished.

Finally, Mr. Speaker, I would like to thank all hon. members for their contributions to this debate. As I indicated at the outset of my remarks, I think this is the most important function we've served in this Legislature during the course of this session. The remarks of the hon. members who have contributed to this debate and of those hon. members who contributed to the debate during the previous two airings of this issue have been very important to its ultimate resolution. I would like to express my appreciation for the efforts of hon. members in so doing and, finally, my appreciation for the interest of the Premier in this very important aspect of the work of this Legislature. The fact that he has contributed to this debate and taken an interest, of the significant stature that he has, in education confirms that this area is one of the most important responsibilities of this Legislature and one of the most important responsibilities that the British North America Act provides and requires us to fulfil as a provincial Legislature.

Mr. Speaker, I urge all hon. members to vote in support of this resolution.

[Motion carried]

head: **PRIVATE BILLS**
(Second Reading)

Bill Pr.1
An Act to Amend The Alberta Wheat Pool Act, 1970

MR. DOAN: Mr. Speaker, I propose second reading of Bill Pr. 1, An Act to Amend The Alberta Wheat Pool Act, 1970. The purpose of this bill is an agreement between our Department of Agriculture and an executive committee of the Alberta Wheat Pool to review The Alberta Wheat Pool Act, 1970, and to provide to our hon. Minister of Agriculture and the Alberta Wheat Pool president a draft outline of a new act with

the following terms of reference: to consider other relevant legislation and determine if there is a contradiction between The Alberta Wheat Pool Act and other provincial legislation; to determine if The Alberta Wheat Pool Act provides sufficient power to the Alberta Wheat Pool to carry out its functions; to determine if the existing act provides to the Alberta Wheat Pool powers which are not required and are not in the best interest of the directors, delegates, and members of the Alberta Wheat Pool; and fourthly, to provide for other changes in the act which may be considered necessary by the committee.

In the review of The Alberta Wheat Pool Act, 1970, comparison was made with The Co-operative Associations Act. It was found that there are many similarities. For example. Section 4 of The Alberta Wheat Pool Act, which deals with the capacity of power of this co-operation, is very similar to Section 12 of the The Co-operative Associations Act. A co-operative association established under The Co-operative Associations Act may have unlimited capitalization. In other words, the limits of capitalization may be determined by the co-op itself through due process as set out by its memorandum. The view was that there is no compelling reason that the Alberta Wheat Pool or its members could not be incorporated under either of these acts, rather than under the private bills of the Legislature. Indeed it can be agreed that there is some merit in a corporation of this size of capital and membership being subject to the scrutiny of the Legislature rather than a bureau of government, as would be the case under The Co-operative Associations Act.

Capitalization of the Alberta Wheat Pool was amended a short time ago and was set out at $60 million, these reserves being a portion of the earnings of the pool which have been retained by the pool and allocated or credited to a member or members. However, it should be assumed that members' investment in the organization is for the purpose of ownership of service rather than to obtain capital gain.

The structure of the Alberta Wheat Pool is a sort of pyramid with the members forming the broad base. Each is entitled to one vote to be used to elect a delegate, of whom there are 70. The delegate body, being the second tier of the pyramid, in turn elects the board of directors, who number seven and are responsible for the affairs of the Alberta Wheat Pool. In a large organization such as the Alberta Wheat Pool, it is necessary that the membership delegate authority to a relatively small group in order to carry out day to day decisions.

However, Mr. Speaker, a feeling seemed to have developed in the Alberta Wheat Pool membership that too many decisions were being made at the top without enough communication with the membership. To make a better understanding and bring the by-laws of the Alberta Wheat Pool up to date, some seven repeals and 11 amendments are recommended in this bill. Many amendments are only changes in the by-law of one or two words, such as an explanation of the reserves being earnings of the Alberta Wheat Pool and allocated or credited to members.

Section 5 is amended by striking out the word "may" and substituting "shall". Section 15 is repealed and reworded:

> The Directors of the Pool shall, as far as is practicable; administer the affairs of the Pool in accordance with policy established from time to time by the delegates and pursuant to such policy shall have power to do all things in their opinion necessary . . .

Section 7:

> At any time the Board sees fit or upon the written demand or petition of 10% of the members or by a vote of 40% of the delegates at any regular. . . meeting . . .

Section 25 is repealed, with the following change:

> The delegates may at any [time] ratify and validate any acts, resolutions, payments, distribution of moneys among members and any other matters . . . dealt with by delegates, directors, officers, [or] agents . . . of the Pool . . .

Section 27 is repealed as it relates to the reserves and their distribution to members. Section 31 is repealed as related to authorized reserves and the amount of same. Section 38: by February 1, the Pool shall conduct an audit of business and present a certified copy to the Clerk of the Legislature and a copy to every member.

Mr. Speaker, these samples of the repeals and amendments, as recommended by joint meeting of government representatives and Alberta Wheat Pool executives, should create a better feeling among members and update the by-laws. I would ask that you support Bill Pr. 1, together with the amendments to date.

[Motion carried; Bill Pr. 1 read a second time]

Bill Pr. 3
An Act to Incorporate
Concordia College

MR. KING: Mr. Speaker, I move that Bill Pr. 3, An Act to Incorporate Concordia College, as amended in committee be now read a second time.

[Motion carried; Bill Pr. 3 read a second time]

Bill Pr. 4
An Act to Incorporate
St. Joseph's Hospital, Radway

MR. TOPOLNISKY: Mr. Speaker, I move second reading of Bill Pr. 4, An Act to Incorporate St. Joseph's Hospital, Radway.

[Motion carried; Bill Pr. 4 read a second time]

head: GOVERNMENT BILLS AND ORDERS
(Second Reading)
(continued)

Bill 38
The Municipal Government
Amendment Act, 1978

MR. KING: Mr. Speaker, I move that Bill No. 38, The Municipal Government Amendment Act, 1978, be now read a second time.

Briefly, Mr. Speaker, the procedure followed with respect to annexation procedures is at present before the Local Authorities Board, which may either order or decline to order an annexation. Because of

amendments recently made to The Municipal Government Act, the board's orders for annexation are forwarded to the Lieutenant Governor in Council to be ratified. If the board declines to order an annexation, refuses a proposal for annexation, that decision does not go to the Lieutenant Governor in Council. So at the present time, the Lieutenant Governor in Council deals only with annexations recommended by the Local Authorities Board.

The amendment before us proposes no change with respect to annexation proceedings declined by the Local Authorities Board. The amendment deals with annexations recommended by the Local Authorities Board and which, in order to be given effect, must be approved by the Lieutenant Governor in Council. Two new options are being proposed. At the present time, upon the recommendation of the Local Authorities Board, the Lieutenant Governor in Council may approve it in its entirety or reject it in its entirety. No course other than those two is presently available to it. The amendment would allow two variations: first, to prescribe conditions upon which annexation would proceed and, secondly, to vary the order recommended by the Local Authorities Board.

If I could, Mr. Speaker, I would briefly like to cite five principles that are important to consider, and hopefully to adopt, with respect to the recommendation of the Local Authorities Board for annexation proceedings. The first is that annexation orders approved by the Lieutenant Governor in Council should conform to government policy respecting the development of the province, the diversification of activity throughout the province, or the decentralization of activity. Secondly, there is the need that actions should be consistent one with another. Thirdly, there is the need to provide a solution to problems of anticipated growth, particularly around a small number of centres in Alberta, perhaps most obviously the metropolitan centres of Edmonton and Calgary. Fourthly, there is the need to act with a minimum amount of intervention respecting recommendations of the Local Authorities Board. Fifthly, there is the need to bring annexation proceedings to an expeditious conclusion.

It is particularly true that adjacent to metropolitan areas, the question of annexation is not exclusively technical. It is not exclusively based on empirical considerations. But just as it is not exclusively technical, it is also not exclusively political. Both the technical and the political aspects are important components of the final decision that is going to be made respecting annexation.

In my view, Mr. Speaker, the city of Edmonton, if I may say so, should take this amendment as notice that the government does not accept the proposition that annexation by the city of Edmonton can be dealt with by the cabinet without prior consideration by the Local Authorities Board on the same basis as currently.

[Motion carried; Bill 38 read a second time]

Bill 32
The Court of Queen's Bench Act

MR. FOSTER: Mr. Speaker, about 10 years ago an Attorney General rose in this Assembly and proposed a merger of the district court of Alberta and the trial division of the Supreme Court of Alberta. Almost three years ago I made a formal proposal of the same nature to the midwinter meeting of the Canadian Bar and suggested that a study group representative of the bar, the judiciary, the department, and the Institute of Law Research and Reform be established to review the matter.

It is now 10 years later or in the case I've mentioned almost three years later that Bill 32 and subsequently Bill 33 are being proposed to merge into one single trial court the district court of Alberta and the trial division of the Supreme Court of Alberta. I should say that the district court of Alberta is established pursuant to The District Court Act. The Supreme Court of Alberta is established pursuant to The Judicature Act and is found in two divisions, a trial division of the Supreme Court of Alberta and the appellate division of that court. It is the appellate division which we are now proposing to call the court of appeal, which will be established in The Court of Appeal Act.

One may ask, Mr. Speaker, how did the government arrive at the name "Court of Queen's Bench"? Why did we not call it, for example, the Supreme Court of Alberta, the high court of Alberta, the superior court of Alberta, or something else? I believe the decision was based on the feeling that if you are to have one Section 96 court in this province it be the Court of Queen's Bench, much like Saskatchewan and Manitoba have. After all, the Supreme Court of Alberta is not supreme in Alberta; the high court of Alberta is not high in the sense that others are low; a superior court is not superior in others being inferior, other than in terms of jurisdictional sense. Thus the Court of Queen's Bench was agreed upon.

Personally, Mr. Speaker, I'm a constitutional monarchist, and I find some aid and comfort in the fact that Her Majesty the Queen is visiting the province this year. And I trust this is the year the Legislature of this province will pass into law the Court of Queen's Bench. It does not indicate high, low, superior, inferior, supreme, or otherwise. It is a Court of Queen's Bench. In the reign of a monarch of Canada who is a king, it will be known as the Court of King's Bench. I think that's quite appropriate.

Mr. Speaker, a major change that touches upon the administration of justice inevitably touches the lives of those closest to it. I will therefore endeavor to discuss this matter without creating unnecessary public debate or controversy. I recognize the importance of maintaining public respect for the judiciary and indeed for the bar, and maintaining the respect and morale of both.

I would like to take a few minutes and outline my views of a model judicial system. As I will deal with later, Alberta adopted its current court structure not by conscious decision in 1905 or 1907 when The District Court Act was passed, but because it was the system that existed here. It existed in the Northwest Territories; it existed elsewhere in Canada. We simply adopted it like we adopted the laws of England in July 1873. Many of those structures and laws have since been done away with by Great Britain, but they continue to be the laws and the structures of parts of the nation of Canada and indeed the province of Alberta.

I'd like to suggest five or six factors that relate to a model judicial system. The first is a flexible and

simple structure. In my view, government should provide a judicial system which is simple, flexible, and easily understood, with adequate authority in the hands of those who are charged with the responsibility of making it function. Flexibility and a simple structure, in my judgment, are paramount. The limits of flexibility and structure are on the one hand Section 96 of the British North America Act, which incidentally does not require two trial courts, and on the other hand our willingness to look beyond the status quo today and design a better court system for tomorrow.

The American Bar Association document entitled, Standards Relating to Court Organization, had this to say on the subject:

> The structure of an ideal court system should be simple, consisting of a trial court and an appellate court, each having divisions and departments as needed. A trial court should have jurisdiction in all cases and proceedings. The judicial function of the trial court should be performed by a single class of judges.

I don't often quote Ontario Law Reform Commission reports in my remarks, either publicly or privately, but I will refer to one which was recently issued. They had this to say on the subject of the administration of the courts:

> As a final goal of court management, we would recommend that wherever possible the court system be simplified so that it could be better understood, utilized, and accepted by lay members of the public. We refer specifically to court structure, procedures, and terminology.

Mr. Speaker, I've been in this office for just slightly over three years, but I say to you without hesitation that you cannot occupy the office I do for too long before coming to the conclusion that our existing court system is unnecessarily complex, unnecessarily inflexible, and anything but simple. I have been quoted before as saying we have too many courts in this province; I believe that to be the case. I would like to take a moment now to explain why.

At the provincial court level, which is to say judges appointed to the provincial courts by the province of Alberta, we have essentially three courts. We have the small claims courts, with jurisdiction in tort and damages to $1,000. We have the juvenile and family court, a separate court with modest jurisdiction in family law. And we have of course the provincial court, which is essentially a court of criminal jurisdiction. In addition, we have the federally appointed courts: two trial courts, one the district court and one the trial division of the Supreme Court, and of course the court of appeal.

Mr. Speaker, much time and attention has been given in this Assembly to discussion of the Kirby Board of Review as it relates to the administration of justice in the provincial courts. The Kirby Board of Review had much to say with respect to process, procedures, relationships, and the like. I think those who believed that the Kirby Board of Review touched only the provincial court are naive. It's clear to say that the Kirby Board of Review and many of the proposals made therein had to relate, of necessity, to the entire justice system in this province. It has been my responsibility to consider how the recommendations of Kirby and others might be reflected elsewhere in our court system.

One of the fundamental weaknesses of the provincial court system has been the quality of judges. The quality of judges is determined as much by remuneration, status, and recognition as it is by jurisdiction. I suggest to you that we should design a provincial court system — and I hope to make this proposal in this Assembly within the next year — which is in fact a unified court within the provincial court system; one provincial court for this province having perhaps three separate divisions: a small claims division, a family law division, and a criminal division. I'll deal with that later.

I am suggesting that we must consider broadening the jurisdiction of the provincial court, not because I simply want to relieve Section 96 judges of this responsibility, but indeed because I think it's appropriate to broaden the jurisdiction of the provincial court and thereby attract and continue to attract and retain the top quality men and women we are able to bring to that court. I hope to discuss that in further detail later.

The second consideration in a model judicial system, I think, is the whole question of access to the courts. Mr. Speaker, I believe the public, the bar, the police, and other users of the court system are entitled to get into and out of the justice system without delay and at a reasonable cost. Of course one of the aspects of access to the system is geography; that is to say, the travel time to and from the courts in this province. Until recently, we had some 115 provincial court sittings in a like number of communities across this province. That has now been reduced to 102, to meet the commitments of the Kirby Board of Review. I don't think the provincial government should be expected to provide properly constructed facilities in 115 centres, and I believe that 102 facilities across this province are adequately meeting our requirements.

With respect to the district court, which now sits in 20 centres in this province, and the trial division in 12 centres, I think it is reasonable to ask the people of this province to travel 30 to 40 minutes, for example, to access the provincial courts. With respect to the district courts, I can say to you that Albertans in centres of 2,000 or more citizens can usually gain access to the district court by travelling within one hour, normally on a modern highway. I don't think that situation should change. Mr. Speaker, I'm satisfied that merger of these two courts would not in any way require a reduction in service to centres outside Edmonton and Calgary. I think, for example, that the prospects of having a judge of Queen's Bench sitting in almost 20 centres in this province, who has complete jurisdiction of both those courts, would in fact strengthen and improve the quality of justice services outside the major urban areas. I'll deal more with that later.

The third factor in a model system, I think, is a concern for efficiency in cost. In the postsecondary education system, like the justice system, we're not particularly concerned with cost and efficiency, because it is very, very difficult to assess. At the same time we have to be mindful of the costs of an ever-increasing justice system. The rights of the accused and the right to a fair trial are clearly not dictated by a concern for cost alone. However, we cannot ignore the fact that the administration of justice is an increasing area of cost for the taxpayer, both as a user and as a tax supporter of the courts.

We are now well into the final implementation stages of Kirby with respect to the provincial court, as I think most of us realize. We have provided new staff, new facilities, and new procedures. We are in the detailed planning stages of major new court facilities in Edmonton, Lethbridge, Red Deer, Medicine Hat, and other centres including Calgary, although Calgary is urgently in need of additional work. We have been assessing the efficiency and cost considerations of an amalgamated court in our planning process. These new facilities in the centres I have mentioned, and in some cases outside the major centres, will be unified facilities in the sense that they will accommodate both the provincial court and the Court of Queen's Bench. I suggest that is only reasonable, having regard to the possible utilization and advantages of staffing patterns and the use of equipment and space.

I have no difficulty saying to you that our existing two-court system — and by two-court I mean district and trial division — is relatively inefficient. There is some duplication of staff, records, and systems. There are excess capacities in some areas in the courts and staff shortages in others. Additionally, as many of you know, while the jurisdiction of these two courts is almost identical, there are some exclusive areas where the jurisdiction is not the same. In my view, that overlapping jurisdiction does nothing to minimize the efficiencies, and indeed the efficiency in terms of the use of judicial manpower.

The fourth factor, described as fair treatment and equality, is somewhat more difficult to deal with. I think everyone in this Chamber would agree that equality before the law must exist in fact, in law, and in appearance. I don't think anyone here would argue with that. Each individual must receive equal and fair treatment before the courts, and appear to others to have done so. I don't think anyone here, nor indeed any citizen, would be happy with the impression that he or she gets a greater measure of fair treatment or equality in one court as opposed to the other.

I have already said the jurisdictions of these two courts are almost identical; yet in the hierarchy of courts one court is perceived to be lower than the other. I no longer see any reason for that. Mr. Speaker, these matters are as much a concern to me and to the government of this province as indeed they are to the Minister of Justice for Canada, who is responsible for appointing these judges. We have endeavored to do what we can to minimize or eliminate the artificial distinctions between judges. For example, we have almost completely eliminated the salary differential between provincial court judges and district court judges. But for decontrol problems at the moment, we are committed to a 90 per cent figure for the salary relationship between provincial court judges and district court judges. The chief judge of the provincial court will be paid 100 per cent of the district court, and the district court and the trial division are almost at parity at the moment. This is one small example of our attempt to eliminate, in the name of equality, other than jurisdictional distinctions between the courts.

Another factor is the question of uniformity and consistency. Mr. Speaker, I believe the public interest requires that there be a reasonable measure of uniformity and consistency between these two courts, as in any government service. I suggest it's a little difficult to achieve this if you have two separate courts with almost identical jurisdictions, but organized and operating on an almost completely independent basis. Examples of the absence of uniformity and consistency are areas such as sentencing, damages, custody, alimony, and other matters where both courts are dealing essentially with the same issues.

The American Bar Association commission on the standards of judicial administration had this to say about trial courts or a single trial court: Establishing a single trial court affirms the importance of the administration of justice on the basis of generally shared interpretations of the law and generally shared concepts of fairness and substantial justice. I think Queen's Bench, as a merger of two courts of almost the same jurisdiction, will achieve greater uniformity and consistency, both in administration and in the practice of the courts, than is presently the case with those two courts operating separately in this province.

Mr. Speaker, the district court was brought into being in 1907 in this province, not — I don't think — by any conscious decision by the government of the day to elect a district court system, but merely because that system existed in the territories and elsewhere in the country. We merely adopted what other people had. From that day to this we have given little attention to any significant structural changes except those I will mention.

In 1914 there were 65 sitting places for the district court. When this court was brought into being it had jurisdiction of $600. It was organized in nine districts, although only five judges were appointed. In 1933 the district court became the districts of northern and southern Alberta. The jurisdiction increased to $1,000 in 1951 and to $2,000 in 1963; in 1971 the limits on that jurisdiction were virtually eliminated. So in 1971, seven years ago, the jurisdiction between these courts was effectively eliminated. In 1975 the two divisions of that court in this province were eliminated, so we had one district court with essentially the same jurisdiction and the same powers as the trial division of the Supreme Court. In my view, Mr. Speaker, the decision to organize these two courts eventually as one was made by the government of the day, late in the 1960s, resulting in the jurisdictions' being made the same in 1971. That must have given rise to the recommendation by the Attorney General of the day that we look forward to what are now bills 32 and 33.

Mr. Speaker, with respect to the Edmonton judicial district, it's interesting to note a revealing vote of confidence by the bar in the matter of the merger of the courts. Perhaps I describe it too glibly by saying that lawyers are voting with their feet. They are in fact taking their cases to the district court and the trial division of the Supreme Court almost without distinction. The growing numbers, types, and complexity of cases going to both courts are about the same. I am satisfied that the distinction between these two courts, in the minds of the bar at least, is a distinction without a difference.

There has been some study on the question of amalgamation and merger across Canada. Some provinces don't have two trial courts like we have. Some provinces simply have one, which is what this bill would put into place. The last time I checked, in discussing this with my colleagues the attorneys

general of the provinces, all favored the idea of moving to a single, federally appointed Section 96 trial court. Alberta happens to be moving on this at this time. As I say, a few other provinces have this court structure, and I think it's now time that Alberta follow suit.

I believe that in time — and it will be time — other provinces will follow. If anyone in this Chamber is concerned about the view of the federal government, I should say to you that the view of the Minister of Justice, the Hon. Ron Basford, is that the organization of the courts in the province of Alberta is quite properly the business of the government of this province. He is quite prepared to sponsor whatever legislation is necessary to effect that decision. I have been in correspondence with him recently and he — or the Progressive Conservative government which will follow, as I trust it will — will have the necessary amendments through Parliament in time for April 1, 1979, when this legislation will come into being.

DR. BUCK: All I can say is: you must have supported Joe.

MR. FOSTER: The hon. member opposite was saying that I must have supported Joe. You're very accurate in that assessment.

DR. BUCK: He won't make it, Jim.

MR. FOSTER: Well, I'll do what I can to see that he does.

AN HON. MEMBER: Hear, hear.

MR. FOSTER: Mr. Speaker, what has been done in other jurisdictions and other provinces is not particularly useful to Alberta. I think we must examine our particular geography, the fact that our province is broken into two major population centres in the north and the south and the small number of cities, and look at the public interest of this province.

Mr. Speaker, as usual I find that I'm somewhat verbose. I'm quickly running out of time, so I'll endeavor to move along.

In the course of the discussion that's taken place in the last couple of years with respect to this issue, a number of concerns have been raised, and I'd now like to deal with them. The first is the quality of justice. It's probably the most difficult, the most sensitive, and perhaps the most important of the concerns raised so far. There are some people in this province who believe that the quality of justice increases as you move up the hierarchy in the courts; that is, some believe that judges of the trial division are qualitatively better than judges of the district court. There are even some people who believe the justice system should be organized so that you set aside a small number of highly competent judges to hear only the most significant, the most complex, and the most important cases. I don't believe the bar believes that, nor do I.

I believe judges, like lawyers and other people, are human beings, and some are better than others. I would not say that, on balance, the quality of the trial division is better than the district court. There may be judges in both courts who are a little better than some others, but I wouldn't draw the conclusion that, as a court, one is any better than the other.

There may be a case, Mr. Speaker, for specialization in the courts; that is, setting aside certain cases to be heard by specific judges. I suggest that that's an argument in favor of specialization, but not structure, in the courts. I don't think the concern for the quality of justice deserves further comment than I've made so far, and I'm satisfied that Chief Justice McGillivray would take the same view.

Second was the concern about attracting leaders of the bar. Some people feel that with two courts merged into one, leaders of the bar could not be attracted; that somehow they may prefer to go to the federal court or indeed not go to the courts at all. I have great difficulty believing that leaders in the court system who might find the trial division attractive today will find a unified court unattractive tomorrow because all of a sudden the court has been merged. I simply don't believe that. I cannot believe that there are leaders of the bar who adopt that view. Certainly I have tried to discover if there were any and have been unsuccessful in doing so. If that is true, Mr. Speaker, one wonders how the superior court of Quebec is able to attract the quality of men and women it has.

A third concern had to do with the residency of judges. Some people felt that with the merger they might lose the capacity of having resident judges in their community. Under The District Court Act, the Attorney General has the right to assign the residency of judges. The Judicature Act provides that those judges shall reside in Edmonton or Calgary. Some obvious benefits flow from having judges outside Edmonton and Calgary, and it's my objective to see that in time Queen's Bench judges do in fact reside outside Edmonton and Calgary. Obvious centres are Lethbridge, Medicine Hat, Red Deer, and perhaps Grande Prairie in time.

I don't believe that judges' living together in one or two centres simply for the benefits of collegiality is the only benefit we must consider. I have serious doubts that setting these judges apart from the community is of any real value, particularly to themselves. I strongly favor the view that judges should be located outside these centres, for obvious reasons, and you will find provision in this legislation for that.

My policy has been not to require any judge to live wherever he doesn't want to live. I can't see that changing, but I think we need the capacity to say to the federal government: when you are next making appointments to Queen's Bench courts, we hope you'll have a judge live in Lethbridge, Medicine Hat, or Red Deer. The appointments will be made on that basis. I referred to my federal colleague a moment ago. I can quote him as saying he felt that Alberta's requiring judges to live outside Edmonton and Calgary was a "very wise" move, and I am grateful to him for that comment.

Another concern was that court services may be withdrawn from rural Alberta. I don't believe that will be the case. Indeed we're designing provincial court facilities across this province to accommodate trials of many kinds, including jury trials. I expect that with the increases in its civil jurisdiction the provincial court will be hearing a number of matters in centres where today that capacity does not exist, and going well beyond the 15 or 18 centres where the Queen's Bench will be sitting. I'll be making a proposal to the

bar very shortly concerning expansion in the jurisdiction of family law, small claims, and the future of the masters in chambers.

Mr. Speaker, another concern has been suggested; that is, that we should retain both the district court and the trial division of the Supreme Court because there is some intrinsic value in the competitiveness between these courts. Presumably having a competition between the two courts ensures courtesy in the courtroom and dispatch with cases. I don't want to deal with it too summarily, except to say that if that is in fact an argument — with which I disagree — one wonders why we don't have two courts of appeal and indeed two provincial courts — if the name of the game is to ensure competition in the justice system. I don't think it is.

The council of the Canadian bar has urged merger on the condition that we require residence outside Edmonton and Calgary and the benchers of the Law Society have seen no reason not to proceed with merger, although they wish to have certain jurisdictional matters studied. Of course I agree with that, In my judgment, lawyers generally support this move. I say to you, Mr. Speaker, any time you can get the lawyers generally to support a change in the justice system, you can be reasonably assured that it's an idea well past its time, and it should have been done long ago.

For those who may be interested, I would describe the views of the judges as mixed. Some judges favor it; some are lukewarm; and some are opposed. I don't propose to go further than that.

I'm hoping this legislation will be proclaimed in April 1979. Bills 32 and 33 will both remain on the Order Paper. They'll be dealt with in the fall, to give us time to meet with those who may be interested, including the judiciary, to discuss certain amendments. I met with the district court last week, and I'll be meeting with the trial division in Jasper in a few weeks. I will be proposing to the bar, the judiciary, and indeed the public, certain jurisdictional changes that I think will flow.

Mr. Speaker, in conclusion — and I realize I'm almost out of time — I would like to say that now is not the time to study this basic change in the justice system for another 10 years, or even three years. To me it is self-evident, reasonable, and necessary. I hope the people of this province and indeed the members of this Assembly will allow us to take this one small step forward as we endeavor to improve the justice system in this province.

MR. HORSMAN: Mr. Speaker, I want to add a few words to the what the Attorney General has said this evening on the question of amalgamation of the courts. I welcome his announcement that the bills will be held over the summer for input from members of the local bar associations and members of the bench of this province. The Attorney General has said that this matter has been under consideration for 10 years. I would remind members of the Assembly of the old saying that the wheels of justice grind exceedingly slowly, but they grind exceedingly fine. This extra few months of grinding on this subject may very well result in a bill which will indeed serve the people of Alberta very well for many more years.

Mr. Speaker, the Attorney General also made reference to the Kirby Board of Review in his remarks. I wish to add my very sincere feelings that the Kirby Board of Review was structured in such a manner that the public had an opportunity to advise the board first, and then the members of the government, as to how the provincial court should be structured in future years.

I need not repeat concerns expressed in my debate on the Speech from the Throne on March 13 this year, in which I raised six points for consideration by the Attorney General when discussing this question. However, I wish to highlight my main concern at that time, the centralization of court services in the cities of Edmonton and Calgary. It has been the thrust of this government since 1971 to decentralize the services available to the people of Alberta in every respect. On the question of court services, it is very important that we keep that in mind.

As I said at that time, it's also important not to confuse the question of function of the court with the question of jurisdiction. The Attorney General alluded to the fact that the lawyers in Edmonton are voting with their feet and going equally to the district court and the Supreme Court. In the case of smaller judicial centres such as Medicine Hat, I would suggest that if they have been voting with their feet, they have been voting heavily in favor of the district court, because in fact the increase in jurisdiction of the district court has been one of the most welcome features of the judicial system in this province over the past several years. Since it has increased jurisdiction, particularly in matrimonial affairs, I would say the district court is now handling by far the great bulk of the litigation which takes place in smaller judicial centres throughout this province.

Why? You must ask why. The answer is quite simply, because the district court judges are there every week of the year. But historically, what is the case with Supreme Court judges in these smaller communities throughout Alberta? They are seldom there. I'm not in any way faulting the Supreme Court of Alberta in that respect; quite the contrary. When the Supreme Court judges have come to the smaller communities, they have dispensed justice equitably and fairly, and I need not point that out. But the fact of the matter is: it is not structured in the manner the district court has been to provide justice on a weekly basis to the smaller centres throughout the province.

That's really where we come to the most difficult part of this question of amalgamation. I think it really relates to the question of residency of the judges. In the legislation before us, Bill 32, we find a provision which is found almost verbatim in the present District Court Act. The bill before us states, in Section 6(2), that: "Each judge other than the Chief Justice shall reside at or in the neighborhood of a city approved in writing by the Attorney General". Section 10 of The District Court Act states that: "Each district court judge shall reside . . . at such place as the Attorney General in writing approves".

I think that is where we have our most difficult problem in this whole legislation. That is where people who are really sincerely concerned with this whole question must address their views in the coming months to the Attorney General. As the Attorney General has said tonight, many representations have been made to him and to other members of the Legislature about concerns that judges be resident not just in Edmonton and Calgary but in the

smaller judicial centres. I welcome the intention, in the Attorney General's remark this evening, to ensure that in the future judges are resident in judicial centres such as Lethbridge, Medicine Hat, Red Deer, and possibly Grande Prairie. Indeed I welcome that.

But I suggest that how we achieve that end is one of the most difficult areas facing us in dealing with this legislation. How one makes the transition from a Supreme Court, where judges have been appointed without any requirement that they live outside the Edmonton or Calgary judicial centres, and the district court, where it has been the authority or prerogative of the Attorney General to assign the judges to reside in smaller communities outside Edmonton and Calgary; how you meld those two courts into one and how one assigns the residency in the coming years while this amalgamation is taking place will prove to be very difficult. At that point particularly I believe the bar associations and the Law Society of Alberta have a very real function to perform in this area, and I question whether or not they have really performed satisfactorily and addressed themselves to it in sufficient manner.

In this province we have not chosen to establish another board of review or commission to review this question. Other provinces have done so. There are 10 provinces in Canada, two of which have amalgamated courts: Prince Edward Island and Quebec. Other provinces have addressed this question by having judicial reviews. That may have been a very useful alternative to have pursued. All other provinces — British Columbia, Ontario — which have in fact established boards of review or judicial bodies to look at this question have recommended against merger. However, we have not chosen to do that.

But in the coming months, as I have said earlier, local lawyers — when I say "local lawyers" I mean lawyers who reside outside Edmonton and Calgary. There are some lawyers who don't live in Edmonton and Calgary, although it may surprise some of the Edmonton and Calgary lawyers. They may have their opportunity now, as may local bar associations and the Law Society of Alberta, to address the very real concerns about how this amalgamation should take place. I suggest that in the coming months these people and organizations should make their views known to the Attorney General, the Premier, other members of Executive Council, individual government members, and opposition members of the Legislative Assembly.

If they do not, I think it can be fairly said in this Assembly that they have forfeited their right to meaningful input on how the court amalgamation will proceed. Now the opportunity is there. There is no question about it. As I said at the opening of my remarks, I welcome the fact that the Attorney General has made this opportunity available to lawyers and interested people throughout the province. It is their opportunity. I think that that is meaningful, and I think those who are opposed to the amalgamation — and there are many in the bar and on the bench; there's no question about that — now have their opportunity, without question, to make their views known. I suggest that is open and responsive government.

[Motion carried; Bill 32 read a second time]

Bill 33
The Court of Appeal Act

MR. FOSTER: Mr. Speaker, I move second reading of Bill 33, The Court of Appeal Act. You will be happy to hear I don't intend to speak for half an hour on the subject, except to say that the court of appeal is being continued under a new name, as it is now known, the appellate division of the Supreme Court of Alberta, and The Judicature Act is being repealed.

Mr. Speaker, it may be that Alberta needs to consider a different organization of our court of appeal in the years ahead. At the moment there are nine members of that court; in Ontario and Quebec I think they get up to 15. There may be some suggestion that we need to consider some different system of accommodating appeals, which will be Queen's Bench and the court of appeal. A divisional court has been suggested. I was interested to note a study by the attorney general's committee in Ontario; I'm advised by the deputy attorney general in Ontario that that system is not working very well. I'm not sure, therefore, that any of us have the answer.

My purpose in raising this is to say that the structure of the courts is not static. I think it is subject to review and change. I would expect that in the course of the next few years we'll be looking at the future of our court of appeal, and I would welcome that. I don't think any of us have any answers today, but at this point the court of appeal is simply being continued as part of this merger. I would point out that all members of the Queen's Bench are ex officio members of the court of appeal, as is the current situation among the judges of the Supreme Court under The Judicature Act.

[Motion carried; Bill 33 read a second time]

head: **PRIVATE BILLS**
(Second Reading)
(continued)

Bill Pr. 2
An Act to Amend An Act
To Incorporate the Society of
Industrial Accountants of Alberta

MR. YOUNG: Mr. Speaker, it is my pleasure this evening to move second reading of Bill Pr. 2. I think most hon. members are reasonably familiar with the bill. Essentially it is a change of name. It is an attempt to change the name to a more up-to-date, meaningful description of what in fact this group of accountants — earlier known as industrial accountants — does; that is, a service to management on a much broader basis than was the description in the days when the original bill was passed.

[Motion carried; Bill Pr. 2 read a second time]

Bill Pr. 5
An Act Respecting
The Royal Trust Company and
Royal Trust Corporation of Canada

MR. YOUNG: Mr. Speaker, Bill Pr. 5 is a piece of legislation which will enable the Royal Trust Com-

pany to transfer to the Royal Trust Corporation of Canada certain of its business in the province of Alberta.

Just a word of history, Mr. Speaker. The Royal Trust Company was incorporated by a special act of the Legislature of the province of Quebec in the late nineteenth century. As the company evolved and extended, it gradually became active in all provinces of the Dominion of Canada; it became the leading corporate trustee. In 1976 the company received federal incorporation and established its head office in Calgary as the Royal Trust Corporation of Canada. So the Royal Trust Corporation is in fact a totally owned subsidiary of the Royal Trust Company.

This bill would enable the Royal Trust Company to transfer certain of its operations and assets within the province of Alberta, with the consent of the persons whose business is involved, to the Royal Trust Corporation of Canada. The nature of the business which would be transferred is the personal agency business, which is primarily in investment management and custodian of assets for trust. In short, Mr. Speaker, it's a means by which the parent company can transfer certain of its business to a subsidiary company in the province of Alberta. This bill would affect only business ongoing in the province of Alberta.

[Motion carried; Bill Pr. 5 read a second time]

head: GOVERNMENT BILLS AND ORDERS
(Second Reading)
(continued)

Bill 40
The Ombudsman Amendment Act, 1978

MR. HYNDMAN: Mr. Speaker, briefly stated, the purpose of this amending bill is to fine tune what has already been found, through experience over the course of the last 10 years, to be a sound piece of legislation. The committee which reviewed this act said it felt extensive changes were not required and indicated an updating was in order, rather than any major policy statements or changes. The report, which I assume hon. members have read, was dated May 1977. After hearing 36 submissions and having public hearings, the chairman, Dr. McCrimmon, and five members, including the Leader of the Opposition, produced what I believe was a sound piece of legislative recommending information.

As to the highlights of the bill before members tonight, firstly one of its purposes is to reinforce the independence of the office of Ombudsman by shifting control from the cabinet to the Legislature. Government Motion 15, which was passed by this Assembly earlier this evening, sets up the mechanism whereby the select committee for the Auditor and the Ombudsman would provide a forum to which the Ombudsman would have access, and by means of which he could more regularly be able to put forward and discuss suggestions for legislative change.

As the committee mentioned in its report, the question of jurisdiction received the greatest amount of attention. Regarding municipalities, the committee pointed out that they felt local autonomy should be respected, and that because there was no overwhelming request for a change in jurisdiction, there should be no changes in the act which would put the jurisdiction of the Ombudsman over municipalities. I think that was a wise recommendation at this time: It probably will be and should be considered by the select committee on the Auditor and the Ombudsman in the months ahead.

Mr. Speaker, I think another reason for not expanding the jurisdiction of the Ombudsman over municipalities at this time is the fact that at the municipal elections of last fall there was at least a 50 per cent change in the membership of the councillors, aldermen, reeves, and mayors. For example, in the early spring of 1977, the city of Edmonton conveyed to the committee a resolution by which it asked for the jurisdiction of the Ombudsman to be extended over the city of Edmonton. However, with the change in membership in that council, my understanding is that today the Edmonton city council would probably not pass that kind of resolution. Therefore I invite the cities of the province, the AUMA, the Association of Municipal Districts and Counties, and the Alberta School Trustees' Association to consider the matter of the Ombudsman's jurisdiction over the course of the year and perhaps at their annual conventions and to provide the committee with their recommendations.

Hospital jurisdiction was another question to which the committee spoke. The committee report states that today hospitals have the capacity to set up a person to hear complaints from patients and staff, and therefore suggests there is no need to change, add to, or expand the Ombudsman's jurisdiction to cover hospitals. I suggest that again is an area for useful review by the new committee in the months ahead.

The government ombudsman amendments dated May 10 make it very clear that Crown hospitals are excluded from the jurisdiction of the Ombudsman. There was some uncertainty as to whether or not he had jurisdiction with respect to Crown hospitals. It is very clear from the legal advice I have received that non-Crown hospitals in no way can be construed as agents of the Crown; thus there's no question of his having jurisdiction in respect of those entities.

The other amendment on the sheet dated May 10 relates to a deletion of parts 1 and 2 of The Child Welfare Act. That was an error I made, Mr. Speaker. I misread the views of the Minister of Social Services and Community Health, and of our caucus to a degree, in the sense that it was never our intention as a government to remove from the jurisdiction of the Ombudsman parts 2 and 3 of The Child Welfare Act. That is why the amendment is brought forward to hon. members in the way of a separate amendment sheet.

In conclusion, Mr. Speaker, I think three other matters dealt with by this bill are pertinent. It provides for access to closed files, a question which was not an issue when the bill was originally passed. Also, for the first time it enables a minister to request the Ombudsman to make inquiries. I would point out that of course that request by a minister and the Ombudsman's subsequent inquiry, if he wishes to make one, relate only to matters within the jurisdiction of the Ombudsman. A minister could not ask for an inquiry to be made with respect to a matter outside the jurisdiction of the Ombudsman; that is,

the government or an agency thereof. The amending bill also updates the salary provisions to make them current and contemporary.

Mr. Speaker, in conclusion I'd like to say that the office of the Ombudsman and its present occupant, Dr. Ivany, certainly have the continued and sincere support of this government for the work being done. He has been carrying forth the very young traditions of the office of the Ombudsman in a way we feel is able and competent. We especially feel encouraged by his initiative in moving to the rural areas outside Edmonton and Calgary, being available, and outlining the job of the Ombudsman to people in those parts of the province. We also find that the missionary work he has been doing, spreading the word of the effectiveness of the Alberta office — the first in North America — to other parts of North America and around the world, is something we deem to be worth while.

[Motion carried; Bill 40 read a second time]

Bill 42
The Election Amendment Act, 1978

MR. PURDY: Mr. Speaker, I move second reading of The Election Amendment Act, 1978. This bill was introduced in the Legislature last week. At that time I outlined to hon. members the two changes in the bill. Very quickly, one reduces the rules of residency from one year to six months. The other amendment is fairly substantial. Last year we put through amendments regarding a new enumeration procedure in the province. Enumeration will take place in the month of September, and the month of October was set up as court of revision month. In the act we have reduced the court of revision to serve the second and third full weeks of October. If a returning officer in a constituency feels that a number of people were missed at enumeration time, under the act he has the power to ask for additional days of court of revision.

The voters of Alberta must also be aware that under amendments made to the act last year there is a new procedure after the writ is issued. Four days after the writ is issued and three days before polling day, they can have their names added to the voters' list.

Another important feature of the amendments last year, which should again be enumerated for the people of Alberta, is that the swearing-in procedure has been refined. Previously if a person was not included in the voters' list, he had to bring someone to the polls who knew him to be eligible to vote. Under the amendments of last year the person only has to swear an affidavit in front of one of the election clerks to be eligible to vote.

[Motion carried; Bill 42 read a second time]

Bill 43
The Summary Convictions Act, 1978

MR. FOSTER: Mr. Speaker, I move second reading of Bill 43. I don't intend to go on at length about all the marvellous features of Bill 43, although there are many. I think all members of the House have received from my office this blue brochure prepared by our Project Omega group which outlines proposals for improved handling of minor traffic and parking offences. Essentially it outlines the contents of Bill 43 with some significant changes, which I'll come to. I'll leave that document with all members, because I don't want to go through and repeat it.

I think all members are also aware of the recommendations of the Kirby Board of Review concerning the provincial courts under three sections; one at page 46, another at page 50, and a third at page 54 of the report; which dealt with removal of warrants of committal in default of payment of fines, alternative forms of handling traffic matters, and alternative methods of enforcing municipal by-laws. Many of the recommendations of Kirby are included in Bill 43.

The bill also amends a number of statutes, primarily in the area of abolishing imprisonment as the only option in default of payment of fines. As I said on first reading, it provides for speedy handling, essentially, of several hundred thousand traffic and related offences in the provincial court. It will provide for a marked reduction in the time the public spends getting into and out of the court system. It provides for a civil recovery process, which I'll come to. As I've already said, it abolishes jail.

Mr. Speaker, the act provides for the use of violation tickets for all provincial and municipal offences, which I think is a simpler process than is currently in vogue. That's one which we use under the Criminal Code. Violation tickets will not have to be sworn by a peace officer. There is a system of default judgments for non-payment of fines. And there is an incentive system, if you can call it that, for the payment of fines, in the sense that if you pay your fine within a certain time it's X dollars; if you don't, and you allow a default judgment to go against you, its 2X or very close thereto. We will obviously have fine option programs in place, operated by my colleague the Solicitor General. People will be given time to pay fines, if they don't have the resources; and if they need work, of course, that can be arranged.

There are some technical aspects of the bill which I won't deal with at the moment. The sanctions to assist in recovery of the fines are that we'll have a default judgment process, which of course we can collect by civil process without exemption, since it involves the Crown; a system of distress warrants and the like.

In committee stage I'll propose some amendments to this bill, which in part are technical drafting areas. But there is one which relates to the capacity of the registrar of motor vehicles to seize plates for non-payment of default judgment. I think that will be an important addition.

In this legislation the authority is to designate specific offences and attach a dollar value to them, so there is a specified penalty option in a wide variety of cases. The justice of the peace sitting as a hearing officer will have the opportunity to receive the citizens' contact on a 24-hour basis by telephone, mail, or in person; and to take a guilty plea, assess a fine or, alternatively, set a trial date. That will speed up the system tremendously and allow provincial court judges to do what they should be doing: conducting trials in open court. Of course a JP will have the capacity to set aside a default judgment.

A part of this bill relates to a suspension of operators' driving privileges. That's conditional upon a computer-assisted system which my colleague and I

will endeavor to put in place in the next couple of years. Mr. Speaker, that capacity will not — underline "not" — be part of that which is proclaimed in this legislation. It will come in force when our capacity is in place, and that will not be for some time.

The amendments that relate to the variety of other statutes I referred to on first reading are primarily those having to do with the abolition of the imprisonment and default provisions. You will note, Mr. Speaker, that both the old act will be repealed and this act will come into force on proclamation. I would advise the House and caution the public to be careful and check, because we'll be repealing parts and proclaiming parts in bits and pieces, until the whole thing can be brought into place.

In conclusion, Mr. Speaker, I think it does result in a very significant step forward for minor traffic and related offences in our court system. It will speed up the process, so I think it will provide immeasurable benefit to the citizens and electors of this province. No one should be penalized unnecessarily by having to stand and wait around sometimes for hours, simply to dispose of a relatively minor offence. At the same time I believe you will find that in some cases the offences have been significantly increased. So while there are benefits on one hand, there is a penalty on the other.

I should say to you that the Crown will be resolute in its determination to collect these things. We're not anxious about being in the collection business. In fairness, we do have a final capacity to resort to imprisonment, and that will only be utilized in the case where we have default judgments against citizens and have been unsuccessful in collecting after numerous attempts. Crown counsel will have the option of going before a judge and asking for a warrant for committal. Jail will be used as a final remedy, but certainly not as common a remedy as it is at the moment.

[Motion carried; Bill 43 read a second time]

Bill 44
The Alberta Historical Resources Amendment Act, 1978

MR. WOLSTENHOLME: Mr. Speaker, I move second reading of Bill 44, The Alberta Historical Resources Amendment Act, 1978, with amendments. As I stated in first reading, it's basically a change of phrases and wording. The main change allows municipalities to designate their own historic resources.

MR. SPEAKER: I'll just clarify the matter of the amendments. Is it intended that the amendments be moved in the Assembly or in committee?

MR. WOLSTENHOLME: Mr. Speaker, I guess I'm one ahead of myself. They should be in committee.

[Motion carried; Bill 44 read a second time]

Bill 45
The Fuel Oil Administration Amendment Act, 1978

MR. LEITCH: Mr. Speaker, I move second reading of Bill No. 45, The Fuel Oil Administration Amendment Act, 1978. This proposed amendment will enable us to sell heating fuel for domestic purposes, either after having been colored or in its clear form.

[Motion carried; Bill 45 read a second time]

MR. HYNDMAN: Mr. Speaker, in the absence of the hon. member proposing Bill Pr. 6, I'd ask the Clerk to call Bill Pr. 6, at which time the chairman of the Private Bills Committee, the Member for Medicine Hat-Redcliff, will move second reading.

head: **PRIVATE BILLS**
(Second Reading)
(continued)

Bill Pr. 6
An Act to Incorporate First Western Trust Company

MR. HORSMAN: Mr. Speaker, on behalf of the hon. Member for Calgary Buffalo, I move second reading of Bill Pr. 6, An Act to Incorporate First Western Trust Company, which will incorporate a new Alberta-based trust company under Alberta law.

[Motion carried; Bill Pr. 6 read a second time]

MR. HYNDMAN: Before moving adjournment of the House, Mr. Speaker, as to business tomorrow we'll proceed with committee study on pages 3 and 4 of today's Order Paper, which will include those bills which were given second reading today. We'll start that tomorrow during the government designated hour. My understanding from the members of the opposition is that they agree unanimously to continue with government business tomorrow afternoon after the first 60 minutes of Government Designated Business. In that event we'll continue with committee study and, if there's time, to third readings. So if anyone has any objection to a motion I will make tomorrow, requesting unanimous consent to move to third reading, would they let me know by 12 noon tomorrow?

[At 10:18 p.m., on motion, the House adjourned to Tuesday at 2:30 p.m.]