LEGISLATIVE ASSEMBLY OF ALBERTA

Title: **Thursday, November 2, 1978 2:30 p.m.**

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

PRAYERS

[Mr. Speaker in the Chair]

head: PRESENTING PETITIONS

MR. NOTLEY: Mr. Speaker, I should like to present a petition from 36 of my constituents in an area of the province that comes closest to having the midnight sun. The petition reads:

> To the Legislative Assembly:
> We the undersigned pray the Legislative Assembly to place the question of daylight saving time on the ballot in the form of a referendum or plebiscite at the time of the next provincial election.

head: INTRODUCTION OF BILLS

Bill 78
The Universities Amendment Act, 1978

DR. WALKER: Mr. Speaker, I beg leave to introduce Bill No. 78, The Universities Amendment Act, 1978. The purpose of this bill is to enable institutions in addition to the existing universities to grant degrees in areas other than divinity.

[Leave granted; Bill 78 read a first time]

MR. FOSTER: Mr. Speaker, I move that Bill 78, The Universities Amendment Act, 1978, be placed on the Order Paper under Government Bills and Orders.

[Motion carried]

Bill 225
An Act Establishing the Right to Public Information and the Protection of Individual Privacy

MR. NOTLEY: Mr. Speaker, I beg leave to introduce Bill No. 225, An Act Establishing the Right to Public Information and the Protection of Individual Privacy.

Mr. Speaker, this bill is modelled on pieces of legislation I have presented to previous sessions of the Legislature. The one addition would be a provision that would allow the provincial Ombudsman to arbitrate disputes over the question of invasion of personal privacy.

[Leave granted; Bill 225 read a first time]

head: TABLING RETURNS AND REPORTS

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, 1978.

MR. MINIELY: Mr. Speaker, I wish to table the response to Motion for a Return No. 223.

head: INTRODUCTION OF SPECIAL GUESTS

MR. ADAIR: Mr. Speaker, it's my pleasure today to introduce to you, and through you to the members of this Assembly, two judo coaches from Hokkaido, Japan, Mr. Tanaaki Tabata and Mr. Kosuke Takanashi. These coaches are in Alberta as part of the sports exchange program the government of Alberta has with the province of Hokkaido in Japan. Past exchange coaches have been in the sports of judo and gymnastics. Accompanying the coaches are Mr. Taxi Miyagishima, the acting interpreter; Mr. Ron Van Den Heuvel, representing the Alberta Kodokan Black Belt Association; along with Miss Marlene Kurt, coordinator of the sports exchange program for the Department of Recreation, Parks and Wildlife.

Mr. Speaker, the coaches possess sixth grade black belts in judo, have participated in numerous judo championship tournaments, and are champions of the all-Japan police officers' judo championships. Both of these fine gentlemen are judo instructors with the Hokkaido police force. Their visit to Alberta has been a most positive experience for Alberta's young judo athletes, receiving the coaches' expertise and knowledge in technical aspects in judo as well as special training skills. It's my pleasure to introduce them, and I would ask that they rise and receive the welcome of this Assembly.

MR. STROMBERG: Mr. Speaker, today is a red-letter day for me. At about 10 to 5 we will finish combining on my farm; and I have 20 students from the grade 12 class of New Norway high school, the school I graduated from. They are sitting in the public gallery. I ask them to rise and be recognized by this Assembly.

MR. JAMISON: Mr. Speaker, it's my pleasure this afternoon to introduce to you, and through you to the members of this Assembly, 30 grade 9 students from the Lorne Aiken school in St. Albert, the fifth largest city in Alberta. They are sitting in the members gallery accompanied by their teacher Julie Zard. I ask that they rise and be recognized by the Assembly.

DR. WARRACK: Mr. Speaker, from the best constituency in Alberta [interjections] I'm very pleased to introduce a vibrant, young group of grade 9s from Beiseker school in the Three Hills constituency. I would particularly like to compliment their teacher Ray Courtman, because he has brought his grade 9 class to this Legislature for several consecutive years, showing the kind of interest that young people will need, I think, as they are the leadership of the future. They're accompanied by six parents: Mr. Hagel, Mrs. Stern, Mrs. Schults, Mrs. Henderson, Mrs. Uffelmann, and Mrs. Williams, as well as the bus driver Mr. Shiller. They're in the public gallery, and I invite

you and my colleagues to welcome them to the Alberta Legislature in the customary way.

head: ORAL QUESTION PERIOD

Ministerial Trip

MR. CLARK: Mr. Speaker, noticing all the empty seats in the front bench, I'd like to direct the first question to the Minister of Hospitals and Medical Care. It deals with the minister's announced sojourn to Australia and New Zealand. What estimates has the minister made of the cost of this trip, and when does he plan to leave and to return?

MR. MINIELY: We haven't finalized it yet, Mr. Speaker. Perhaps it would be better if I provided all the specific details tomorrow of what we have arrived at to this point, if the House is still in session, which I anticipate it will be.

MR. CLARK: Mr. Minister, I appreciate that willingness. Can the minister give us some indication of what staff will be accompanying the minister?

MR. MINIELY: The executive assistant, Mrs. Brower, and the administrative assistant, Mrs. McGill.

MR. CLARK: Mr. Speaker, to the minister. Will any of the minister's staff be taking a holiday before returning to Canada, either before or after the official portion of the trip in Australia or New Zealand?

MR. MINIELY: Mr. Speaker, I think that's an individual decision of each member of the staff, and mine as well. I don't think each one has made personal plans yet. But as far as I'm concerned, within the need to be in the office, they certainly have every right to take some personal time after the business is completed if they so desire.

MR. CLARK: Mr. Speaker, to the minister. I take it from that answer that the minister will be going straight to Australia and New Zealand, checking out the flying doctor and other medical areas of interest, and returning directly to Alberta.

MR. MINIELY: That isn't final yet, Mr. Speaker. Because there's a holiday season in there I may leave earlier, and the business might start some time after we arrive in that part of the world.

MR. CLARK: Very interesting.

Lottery Funds

MR. CLARK: Mr. Speaker, I'd like to direct the second question to the Minister of Government Services and Culture. It's part of a question that, if I could put it this way, was asked in Ottawa this morning, I believe, of the minister of sports for Canada, the hon. Mrs. Campagnolo, by the Member of Parliament for Red Deer. The question was: could some funds from Loto Canada be available to the community of Olds to match that amount of money which is raised locally in the community to replace its recreational facilities?

I told the people there that I would pose this question to the minister today: is the Alberta government prepared to consider with the Western Express people the possibility of funds from the Western Express lottery being used to match, on a dollar-per-dollar basis, money which is raised locally in the Olds community, in light of the almost total loss of its recreation facilities yesterday?

MR. SCHMID: Mr. Speaker, first of all I really have to say that I'm quite sure all Albertans are delighted with the kind of spirit Olds so obviously expresses in rising from the ruins of the disaster yesterday. I understand they have already formed a fund-raising committee at this time; in fact, I heard it on the radio this morning. All I can say is that I'm quite sure all Albertans would say again that we should seriously consider this kind of matching of funds, which otherwise of course would be very exceptional, because I said yesterday that usually these amounts only go to province-wide applications or foundations of a similar nature, and that we still have an outstanding commitment of $1.8 million to the Commonwealth Games Foundation. It would have to be added at the end of this commitment having been paid.

Again, Mr. Speaker, I would be delighted to discuss this possibility with the Western Canada Lottery Foundation, and with my colleague the Hon. Allen Adair, to see where and how these matching funds could be contributed.

RCMP Auxiliary Officers

MR. JAMISON: Mr. Speaker, I'd like to address a question to the Solicitor General. Recently, Mr. Minister, you appointed two volunteers as auxiliary members of the RCMP. One of them, by the way, was attached to the RCMP in St. Albert. I was wondering how the selection was made. Is this a major program? If so, could you enlarge on this for the members of the Assembly?

MR. FARRAN: Mr. Speaker, the two who were sworn in the other day were the first of 90 who have been authorized. It's a program conducted by the RCMP in almost every province in Canada and several other police forces, including the Toronto metropolitan police.

The reason for the decision to start on such a program was, first of all, that the Department of National Defence can no longer promise us more than 25 communications teams in the event of a big emergency. Obviously from the point of view of a large-scale disaster — natural or atomic, whatever it might be — disciplined manpower is important. The other motivation was that it's a natural extension of the crime prevention philosophy, as we have been urging police in the last three years to try to make citizens appreciate that they themselves can do a lot to minimize crime by a sensible, good-citizen attitude.

The two who were selected were selected on grounds of character. They have to satisfy the same entrance requirements as the RCMP generally, although of course they don't become fullfledged members of the RCMP. They are unpaid volunteers, serve in their spare time, and can function only when accompanied by a fullfledged Mounted Policeman.

Farm Equipment Franchises

MR. TAYLOR: Thank you, Mr. Speaker. My question is to the hon. Minister of Agriculture. A very short explanation is required first.

I wonder if the Department of Agriculture is aware of the centralization tendency that's now showing its ugly face on the part of International Harvester, which recently closed its franchise at Gleichen, causing the farmers who use that type of machinery grave inconvenience. Now International Harvester is threatening to leave Langdon Corner. After the closure at Gleichen the station at Langdon Corner, Wenstrom's, went to considerable expense to prepare for this franchise, and they have been serving the farmers from Langdon, Gleichen, Cluny, et cetera, who use International Harvester equipment. They are now very disturbed over the fact that International Harvester is threatening to centralize again and take that franchise from Langdon Corner.

Is the department aware of this? Is it doing anything in an endeavor to persuade International Harvester to be fair to those who have bought its equipment for many years?

MR. MOORE: Mr. Speaker, I first became aware of this situation in June of this year. As a matter of fact, the matter was brought to my attention at that time by the MLA for Three Hills, in addition to a number of private citizens who are farmers in that area. I then asked the Farm Implement Board to look into the matter. Subsequently they met for some discussions with the representatives of the company and of the particular firm involved, which is apparently losing its franchise. As far as whether or not a contract could be continued between International Harvester and this particular dealer, the board advised me that they had no jurisdiction under The Farm Implement Act. It was a matter of a contractual arrangement between that company and the dealer.

All I can say on the matter at this time, Mr. Speaker, is that I have reviewed it. In my opinion there is a need to maintain service in that area. We will be monitoring the services provided by that company from their Calgary franchise area in terms of service and parts. If it's concluded that that service is not what it should be, we do have authority under The Farm Implement Act to take some action.

In conclusion, Mr. Speaker, I'd just say it's unfortunate that there are some corporations in this province with headquarters in Toronto that have not yet recognized the desirability of decentralization rather than centralization. The sooner we get them moved to Alberta, the better.

Health Care Insurance Premiums

MR. NOTLEY: Thank you very much, Mr. Speaker. I'd like to direct this question to the hon. Minister of Hospitals and Medical Care. It flows from prosecutions with respect to one constituent of mine for non-payment of a medicare premium back in 1969. My question is: what guidelines has the minister set with respect to the prosecution of people for non-payment of medicare premiums?

MR. MINIELY: Mr. Speaker, Dr. MacLeod, the deputy minister responsible for the health care insurance plan, has asked me specifically with respect to the default of payment of premiums. It was the desire of the then commission, now a division of the department, to move toward prosecution on all non-payment of premiums. My general guideline was simply a verbal instruction to Dr. MacLeod that we should not proceed to prosecution for those who clearly don't have an ability to pay. If there's any real financial difficulty for certain individuals who are not able to pay the premium, we should not pursue those to prosecution. But where there is clearly an ability to pay the premium, and the non-payment is simply based on a lack of willingness to pay or that kind of factor, clearly they should proceed toward prosecution.

I believe the hon. Member for Spirit River-Fairview sent a letter to me with respect to the cases that have been filed with the court system for prosecution. As I recall, the response was that to this point none of the many which had been filed had actually proceeded to court. Action was still being taken on other fronts, rather than actually proceeding toward prosecution.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. minister. In view of the fact that the particular case I mentioned deals with 1969, did the government's decision to proceed with prosecution come as a sudden revelation, or did it in fact require nine years to reach a conclusion that prosecution should begin?

MR. MINIELY: Mr. Speaker, even though he might have earlier, the hon. member would have to give me the details of a specific case for me to examine as a separate matter and report to him. If the House is completed, I would undertake to report to him by way of letter or certainly to his office.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. minister on the larger question of the policy. When did the government conclude that it would embark upon a policy of prosecution for non-payment of medicare premiums? I use the year 1969, Mr. Speaker, because there was some uncertainty that entire year. Many people chose not to pay the medicare premium that year, but paid it afterwards. I raise the question specifically with respect to 1969 because of the political implications of the controversy in that year. When did the government decide it would go back to 1969 to begin prosecutions?

MR. MINIELY: Mr. Speaker, in order to be accurate I would have to check our records on that matter. I recall that the arrears of premiums built up for the first few years because one could not make a definite judgment that there were uncollectable accounts until some time had expired and certain avenues for collection had actually been utilized, including the Provincial Auditor. An actual policy decision would be made only after several other avenues to collect premiums had been made, and that would take a period of years. The plan started in 1969, so it would certainly be after a few years. But the specific date and year, I would have to check the historical records to answer.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. minister. Was the policy to begin prosecu-

tions made as a direct consequence of a ministerial decision? Was it in fact a recommendation of the old health care commission? Did it await the new composition of the department?

MR. MINIELY: Mr. Speaker, again I'd have to check specifically. But I believe the Provincial Auditor and the former Health Care Insurance Commission, in consultation with the Attorney General — in the case of those who clearly had an ability to pay, the full avenues and extent of the law should be utilized. I know the specific date was a recommendation that came to me in similar fashion, but I would have to examine the specific nature and sources of the recommendation to be completely accurate.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. minister. Is the minister advising the Assembly that the ability to pay will be based on the circumstances in 1969 — that happened to be a very bad year in that particular area — or on the ability to pay nine years after the fact?

MR. MINIELY: Mr. Speaker, I can't answer that question. That's the way that's applied administratively. I would have to discuss that with Dr. MacLeod and report.

MR. CLARK: Mr. Speaker, I'd like to direct a further supplementary question to the minister. It deals with this question of garnisheeing wages. What policy is the department using with regard to garnisheeing wages of individuals who are behind with their payments to the Alberta Health Care Insurance Commission or the department this year?

MR. MINIELY: Mr. Speaker, again I think it would be preferable for me to get the exact procedure from the time an account is judged in default and specific collection action is required, and provide that to the House at another time.

MR. CLARK: Might I just ask the minister: within the last six months have new instructions been given to the department by the minister with regard to the question of back payment of health care premiums? I raise the question because a number of people have come to me who have received notices from their employers that the department is now, within the last few months, moving to garnishee wages of people who are behind on their payments.

MR. MINIELY: Mr. Speaker, there have been no new instructions from me in the last number of months. In excess of two years ago, I believe, when Dr. MacLeod first raised it with me prior to departmentalization with the Health Care Insurance Commission, based on a recommendation at that time I gave one guideline. That guideline was that they should exhaust avenues to collect premiums, but they should not proceed to the full extent of prosecution under the law where they felt that it was marginal whether or not the individual Albertan could pay the premium. That's the only guideline and instruction that I gave. [Mr. Lysons entered the House]

MR. CLARK: To the minister . . . [applause]

MR. SPEAKER: To relieve any puzzlement there may be on the part of our visitors, I should say that we all welcome back the hon. Member for Vermilion-Viking.

MR. CLARK: Mr. Speaker, I found myself in such an unusual situation, getting that kind of response from the members on the government side. The Attorney General said I could hardly believe it, and that is right. Might I say to the hon. member: welcome back.

Getting back to the Minister of Hospitals and Medical Care, however: Mr. Minister, I take it from your answer that the minister cannot recall any new instructions he's given to his department within the last six months with regard to garnisheeing of people's wages.

MR. MINIELY: Mr. Speaker, I don't recall any verbal or written instruction. I could double-check that, but I do not recall any.

MR. NOTLEY: Mr. Speaker, if I could put one additional supplementary question for clarification. Do I take it that the concept of ability to pay before any prosecution is undertaken was in the form of an instruction two years ago? Is that what the minister's telling the Assembly?

MR. MINIELY: Mr. Speaker, I have indicated that I would like to check the specific dates. My recollection was that in excess of two years ago Dr. MacLeod made the general recommendation to me that I provide him with that guideline. But again I would have check the specific dates. I would prefer to do so before I answer details.

MR. TAYLOR: A supplementary to the hon. minister. Does the Crown follow the same priorities as set out in the law that everybody else must follow in regard to garnishee of wages?

MR. MINIELY: I believe these actions are ultimately handled through the Attorney General's Department. My colleague might like to answer that specific. But at the point where prosecution is proceeded with, I believe we use the Attorney General's services.

MR. FOSTER: Mr. Speaker, I know there are circumstances under which the Crown ranks in priority over other creditors. I'm not sure whether or not this is an example of it.

I've been very interested in the questioning of my colleague on the matter of prosecutions. I'm beginning to wonder — and I don't know the answer, Mr. Speaker — whether the House may be a little confused on the matter of prosecutions or civil process for the recovery of the debt owing to the Crown. To be quite candid, I'm a little concerned about the suggestion that the Crown considers the economic capacity or resources of an accused person as an element in the decision to prosecute. That is not a criterion that would normally occur to us. I've made a note to myself to check this matter very carefully, as my colleague has agreed to do, and I will be happy to raise it later in the House.

MR. NOTLEY: A supplementary question to the . . .

MR. SPEAKER: Might this be the last supplementary on this topic.

MR. NOTLEY: . . . hon. Attorney General. Is the Attorney General advising the Assembly that on a matter of this importance there was no consultation between the Minister of Hospitals and Medical Care on one hand, and the Attorney General on the other, before an instruction went out that we might or might not have prosecution, depending on the economic circumstances of the individual?

MR. FOSTER: Mr. Speaker, my learned friend across the way has tried very hard, but let's be clear: there must be at least 17,000 different offences under the statutes and laws of this House, and I am not consulted on the prosecution of all of them. I have quite a number of people on my staff who are very capable. They work with the staff of other government departments, and these discussions are going on.

I'm simply saying to the House very candidly that I don't have in my mind anything that rings when you talk about prosecution of persons for non-payment of medicare premiums. I will inform myself and get back to the Assembly. But I don't want to leave any suggestion that, surely to goodness, I'm supposed to be fully familiar with every single prosecution in the courts, because that's impossible.

MR. SPEAKER: The hon. Member for Camrose, followed by the hon. Member for Little Bow.

MR. STROMBERG: Mr. Speaker, my question has been answered.

Constitutional Conference

MR. R. SPEAKER: My question is to the Attorney General. I wonder if the Attorney General would indicate the responsibilities his office or he as minister will take with regard to the constitutional committee. Or will the responsibility be left with the Minister of Federal and Intergovernmental Affairs?

MR. FOSTER: Mr. Speaker, at the first ministers' conference in Ottawa the past few days, it was resolved that a constitutional committee be struck, comprised of ministers of intergovernmental affairs and attorneys general. In view of the fact that the federal government was going to be represented by the Minister of State for Federal-Provincial Relations for Canada, Mr. Lalonde, and the Attorney General for Canada, Mr. Lang, the Premier of Saskatchewan, Allan Blakeney, suggested that the provinces' interests should be represented by the chairman of the council of ministers of intergovernmental affairs, who happens to be my colleague the Attorney General of Saskatchewan, Roy Romanow, and the chairman of the council of provincial justice ministers, who happens to be me. The four of us will be a steering committee, presumably to pilot the initiatives that have arisen from the last three days.

In terms of this Assembly and the government of this province, I expect that the Premier will continue to assign our colleague the Minister of Federal and Intergovernmental Affairs as the minister principally responsible for constitutional matters in this province, of course subject to himself. My responsibility is to act on behalf of my provincial colleagues as attorneys general in the steering committee, not necessarily to represent the provincial government. That will be done primarily by my colleague Mr. Hyndman.

MR. R. SPEAKER: Mr. Speaker, a supplementary to the Attorney General. One of the items on the short list which is of paramount importance to the province of Alberta is natural resources. One of the concerns we have as Albertans, and certainly that the delegation had, is with regard to the caveat being placed by the Prime Minister on taxation and the authority over natural resources. I wonder if the minister can clarify: what seems to be the caveat, or is the caveat a myth at this time?

MR. FOSTER: Mr. Speaker, I would love to get into this. I'm not sure this is the right time and place, and I really think it might be more appropriate that the Premier of the province of Alberta, when he returns to this Assembly later this afternoon or this evening, be given an opportunity to report to the House on the conference, which I know he is anxious to do on a motion on the Order Paper. Following that, I think there may be matters that others of us might follow up on. But I think the Premier should deal with this question initially.

Propane Rebate Program

MR. BATIUK: Mr. Speaker, I'd like to direct my question to the hon. Minister of Agriculture, regarding an announcement made by him some while ago about providing assistance to the tune of 10 cents per gallon to farmers using propane for drying their grain, with a proviso that they do not have the availability of natural gas. I concur in this proviso; however, three farmer constituents of mine have purchased a drier jointly. One has the availability of natural gas, one has propane, and the other has wood and coal. It seems it would be quite difficult for them to change their jets and everything to adapt the dryer from farm to farm. [laughter] I was just wondering whether the minister has made provision for some flexibility in such cases.

MR. MOORE: Mr. Speaker, I think we can solve most of the problems. I don't know about that one, though.

The application forms are just now being received by the district agriculturists and the various propane suppliers throughout the province. Really, the application says that if the farm of the person making an application for rebate on propane purchased is in a franchised area in terms of natural gas service, he is required to get the co-op, or whoever holds the franchise, to sign an affidavit that says: we cannot at this time supply natural gas in sufficient quantities to dry grain on a certain location. I expect some decisions will have to be made by a committee that I might strike in my department or somewhere to arbitrate in cases where the natural gas co-op or franchise area holder will not sign the form.

On the other hand, with respect to people moving driers from various locations, some of which may have natural gas and some may not, it's not been raised with me before. I'd simply have to take that under consideration and see if there's some way the true intent of our program can be accomplished.

MR. BATIUK: Mr. Speaker, a supplementary to the minister. Could he advise whether he has received any complaints from individual farmers where gas co-ops may have tried to take advantage by saying, well they can make natural gas available in due course by forcing farmers to become members of co-ops?

MR. MOORE: Mr. Speaker, some concerns have been expressed to me. But the fact of the matter is that application forms were not yet out, and farmers were speculating that the natural gas co-ops might not co-operate with them. My colleague the Minister of Utilities and Telephones has met with the association of natural gas co-ops. I've been assured that every co-operation will be forthcoming from them.

The hon. member should be aware that the reason for that restriction in the program is simply that we were out there trying to encourage people to get involved in natural gas co-ops and to use natural gas, which over the longer term is a cheaper fuel than propane. We do have some areas in this province where people have done everything to undermine those farmers who have led the natural gas co-op program and tried to get it going. Quite frankly, I for one do not want to provide those people who fought hard against a rural gas co-op with any rebates on propane.

MR. BATIUK: Mr. Speaker, a further supplementary to the Minister of Utilities and Telephones. Can the minister advise whether he has assurance from the natural gas co-ops that they will co-operate?

DR. WARRACK: Mr. Speaker, we certainly have the assurance of the Federation of Alberta Gas Co-ops of their co-operation on this and other matters as well. But it does come down to some very real latitude, as there should be, for the individual gas co-op to make some of those judgments that my colleague the Minister of Agriculture was referring to with respect to the kinds of considerations he was indicating. But the policy question of providing a rebate on propane for grain drying use this fall, up to the end of this calendar year, is something on which we've had the utmost co-operation from the Federation of Alberta Gas Co-ops.

Highway Lights

MR. BUTLER: Thank you, Mr. Speaker. My question is to the Deputy Premier and hon. Minister of Transportation. What is the status of the program to install lights at the entrances from Hanna to Highway No. 9?

DR. HORNER: Mr. Speaker, that project has been contracted to Alberta Power. My understanding is that they're going to try to complete it by the end of this calendar year.

Lakeland College

MR. HANSEN: Mr. Speaker, my question is to the Minister of Advanced Education and Manpower. The Lakeland College board of governors paid a visit to Bonnyville and announced that a new college would be built there. I would like to know at what priority this project sits in your office and when it was budgeted for.

DR. HOHOL: Mr. Speaker, it's my position that Lakeland College is not in a project circumstance with respect to what might be termed a satellite campus. As you know, sir, Lakeland College is a territory, a geography, and the intention is not to build additional campuses but to deliver from existing ones a service to communities that are in the territory generally defined by the term Lakeland College in northeast Alberta.

MR. CLARK: A supplementary question to the minister. Can the minister confirm that he has given approval to building Lakeland College facilities in Bonnyville?

DR. HOHOL: It's the other way around; I have not given approval, nor has approval been sought for a project or a building at Bonnyville. I would like that record to be very, very clear.

Calgary Stampede Facilities

MR. KUSHNER: Mr. Speaker, I'd like to direct my question to the hon. Minister Without Portfolio responsible for Calgary Affairs. Can the minister inform this Assembly if he has had any discussion with the Stampede board as far as construction or expansion north of 17 Avenue is concerned?

MR. McCRAE: Mr. Speaker, I have not had any specific discussions with them on any specific project beyond that advised to the House the other day. They have a general assessment of the Stanford Research Institute report under study by a subcommittee of the Stampede board. When they have concluded that assessment, I anticipate having discussions with them.

MR. KUSHNER: A supplementary question to the minister. Can the minister inform this Assembly if he has seen any plans or diagrams of the expansion of the Calgary Stampede? My reason for that question is that since the property is being expropriated I would think it would be a sort of urgent need. Can the minister of elaborate on that fact?

MR. SPEAKER: Does the hon. member expect the minister to elaborate on the urgent need?

MR. KUSHNER: Mr. Speaker, not on the need. But I would imagine that before going ahead with expanding or expropriating the property, there must have been some discussion with the provincial government.

MR. McCRAE: Mr. Speaker, I think there's some confusion.

SOME HON. MEMBERS: Agreed.

MR. McCRAE: The plans that I have seen are very general. If they were built, they could be constructed anywhere. They don't necessarily relate specifically to the area the hon. member has in mind.

MR. KUSHNER: A supplementary question to the minister. Has the minister had any complaints about property being expropriated in that area for the Stampede expansion?

MR. McCRAE: Yes, I have, Mr. Speaker, from the hon. member. That is the only representation I have had on this particular question.

MR. GOGO: Mr. Speaker, a supplementary question to the hon. Minister of Agriculture, for clarification for an ignorant member of the Assembly. Does the government of Alberta negotiate with the Stampede board or with the Calgary Exhibition Association?

MR. MOORE: I'll refer that question to the Minister Without Portfolio responsible for Calgary Affairs.

MR. McCRAE: I'm sorry, Mr. Speaker, I missed the beginning of the question. Try me again.

MR. GOGO: A supplementary question to the Minister Without Portfolio responsible for Calgary Affairs. For clarification for me as a member, does the government of Alberta have negotiations and dealings with the Calgary Stampede or the Calgary Exhibition association? I'm confused as to whether there's one or two in the city of Calgary.

MR. McCRAE: I'm confused now, too, Mr. Speaker. The particular organization referred to in the first question was, I believe, the Calgary Exhibition and Stampede board, which is a single entity.

Hallowe'en Vandalism

MR. SHABEN: A question, Mr. Speaker, to the Solicitor General. It's now two days since Hallowe'en has passed. I'd like to know if the minister and the department have had an opportunity to assess the nature and extent of any vandalism throughout the province. Upon completing the assessment, does the minister intend to make any recommendations to the cabinet or the government as to changes which might be appropriate in future years?

MR. FARRAN: Mr. Speaker, it was a happy and good Hallowe'en as far as the tiny tots were concerned, which is always a delight to see. But I think it's fair to say that it was a bad Hallowe'en as far as hooliganism by older youth is concerned. I don't know what recommendations I can make. Perhaps I could give you some examples of the things that happened, in the hope that the communities involved will fetch pressure to bear on the perpetrators and point out to them how stupid, childish, and idiotic some of the things they do are.

There were two incidents in Tofield. A swather was dragged down the street and was damaged to the extent of $600. The automobile of the school principal was painted. The principal apprehended the culprits himself, and then he was assaulted. There were three incidents in Lac La Biche: a plate glass window in a store was broken, a hay wagon full of hay was set on fire and destroyed, a picture window was smashed, and there was an assault with a dangerous firearm. A plate glass window in the general store in Kathleen was broken. Nine windows were broken in a school in Slave Lake at a cost of $1,200. There was $500 damage in Red Deer to a farm granary and machinery. There was an attempted arson at the government weigh scale office on Highway 2A north of Red Deer, where a pile of combustible material was ignited in the centre of the building. There was $2,000 worth of damage to a farm home under construction north of Medicine Hat. A number of cars in the Banff school parking lot were painted with bright yellow metallic paint, with profane wording and so on.

I think the culprits are immature, stupid, and should be pressured by their community to grow up.

MR. TAYLOR: Mr. Speaker, a supplementary to the hon. minister. Will these immature, stupid hooligans be charged if they're apprehended? In my view they should be.

AN HON. MEMBER: Hear, hear.

MR. KUSHNER: A supplementary to the Solicitor General on that same area. I wonder if the minister can inform this Assembly what time these instances were happening. Were they before or after midnight?

MR. FARRAN: I don't know when the spooks were walking, whether it was before or after midnight. In regard to the 18 small fires that were started in straw bales in Olds, the last fire was extinguished at 2:30 a.m. As yet there is no connection between those and the disaster in the town, which began with the fire at 5 a.m.

Grain Handling Facilities

MR. MANDEVILLE: Thank you, Mr. Speaker. My question is to the hon. Deputy Premier and Minister of Transportation. Could the minister indicate whether the provincial government is considering participating in upgrading the grain facilities at Prince Rupert and Vancouver?

DR. HORNER: Well, Mr. Speaker, I'm still awaiting the report from the consortium, which I expect any day. I would hope that any participation by the government would be of a financial nature and not of an operating nature. Our participation, I think, would only go beyond that if it became necessary to be the catalyst or the broker between varying factions.

MR. MANDEVILLE: A supplementary question, Mr. Speaker. Has the minister been in touch with Saskatchewan with regard to Saskatchewan's participating in upgrading the facilities at Prince Rupert or Vancouver?

DR. HORNER: Other than in a very informal way, Mr. Speaker, we have not been in consultation with the Saskatchewan government relative to this matter. They have been preoccupied with other matters, but perhaps now we could have some consultation.

MR. CLARK: Mr. Speaker, a supplementary to the Deputy Premier flowing from the first question asked by my colleague from Bow Valley. At what stage is the government's consideration with regard to involvement in the port facilities in Vancouver?

DR. HORNER: That's in a stage of monitoring and assessment as to where additional capital might in fact improve the efficiency relative to the operations of that particular port. We have recently completed a study on the problem of containerization and how the additional use of containers might be of significant benefit to the province's processed agricultural industry and, in the future, to the petrochemical industry.

MR. CLARK: Mr. Speaker, a further supplementary to the Deputy Premier. At what stage is the government's consideration with regard to the possibility of becoming involved in additional grain handling facilities in the Vancouver area, let's say?

DR. HORNER: Well, I think I've said before, Mr. Speaker, in my speech on Motion No. 20, that we were not looking at additional grain handling facilities in the port of Vancouver, but at means whereby grain could be more effectively channelled through the present facilities and more particularly to specialty crops.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. Deputy Premier with respect to his remarks on October 20. Have there been any formal discussions with port authorities on some of the problems the Deputy Premier alluded to on October 20? Or is the matter still in the process of study?

DR. HORNER: I'd have to know which port the hon. member was talking about.

MR. NOTLEY: The port of Vancouver.

DR. HORNER: Well, that's an ongoing proposition, Mr. Speaker. We've had ongoing consultations not only with the port authorities but with other interested people in the port area. More recently, an advisory committee to the port authority has been set up, which my deputy minister on the policy side is attached to, and as starters he has had some discussions with the deputy minister in British Columbia. That's about as much as I can say about the situation in Vancouver at the present.

MR. NOTLEY: Mr. Speaker, a supplementary question to the hon. Deputy Premier. At this stage the process is just studying various options to eliminate some of the bottlenecks in the port, as opposed to any figures being put forward as to the kinds of changes that could be made to improve the facility?

DR. HORNER: Yes, Mr. Speaker. Quite frankly, we would anticipate that farm organizations in the province of Alberta, in other words the users, would spearhead any investment in the port of Vancouver. I think particularly of the alfalfa people, and indeed the rapeseed crushers relative to rapeseed meal and rapeseed oil. I think of those two areas, and indeed of the problem I mentioned earlier of containerization, where it's being shipped in bulk from Alberta and put into containers in the port of Vancouver. The containers have then perhaps come to Alberta and been unloaded here and gone back empty. It seems to me there is some rationalization, and indeed increased movement via container might be of substantial benefit to our processing area.

MR. CLARK: Mr. Speaker, I'd like to direct one further question to the Deputy Premier. It deals with this question of the federal elevators available in Alberta. I raise the question in light of comments the Deputy Premier made earlier about the feds still not knowing what they've got for sale. On the other hand the staff, especially at the federal elevator here in Edmonton, have now received notice from The Wheat Board that in fact they are considered surplus staff. I can get a copy of the letter for the Deputy Premier if he wants it. My question is: has that situation solidified now? Do the feds know what they have for sale?

DR. HORNER: I think the letter did indicate a date sometime in the future, though, when they would be considered surplus. In any case that's my understanding of the letter. Until yesterday, as far as my colleague the Minister of Agriculture and I are aware, the feds were still trying to get somebody to do an appraisal for them so they would know what they had to put up for sale.

MR. SPEAKER: Might this be the last supplementary.

MR. TAYLOR: A supplementary to the hon. Deputy Premier. In connection with Prince Rupert, has the planning of the improved grain handling facilities reached the point in regard to the type of grain handling? Will it be modelled after that in Seattle, or is some other plan being followed?

DR. HORNER: My understanding, and certainly my hope and aspiration, is that it will be a high throughput terminal that would be able to handle substantial quantities in a very short time to load ships quickly. If it doesn't do that, it isn't really going to do the job that we anticipate it should.

MR. SPEAKER: The time for the question period has run out. I did recognize the hon. Member for Drumheller. If he wishes to proceed with his question, does the Assembly agree to extend the period?

HON. MEMBERS: Agreed.

MR. TAYLOR: I'll hold it until tomorrow, Mr. Speaker.

ORDERS OF THE DAY

MR. FOSTER: Mr. Speaker, I'd like to bring to your attention that the members of the opposition have graciously consented to have Orders of the Day move to government business. I have therefore notified the Clerk that it will be our intention to proceed with second reading of Bill 74, followed by committee study of a number of bills on the Order Paper. However, you may choose to deal with Motion for a Return 149 before that, which would be fine.

MR. SPEAKER: Does the Assembly agree that we'll deal with Motion for a Return No. 149, then proceed with government business?

HON. MEMBERS: Agreed.

head: MOTIONS FOR RETURNS

149. Mr. Clark moved that an order of the Assembly do issue for a return showing copies of all correspondence between the two chief justices of Alberta and the hon. Attorney General and/or hon. Premier relating to the merger of the Supreme Court and the district court.

MR. FOSTER: Mr. Speaker, I'd like to thank the Assembly for having this matter stand in my absence. I'm sorry I haven't had the chance to talk to the hon. Leader of the Opposition about my response to his request. I hope he finds it reasonable.

I would prefer not to table the correspondence with the judiciary on the matter of merger. Rather, I would prefer to outline to the Assembly in the course of committee study the concerns that were raised by the judiciary in my meetings with them and correspondence from them. In a nutshell, my reasoning is as follows.

I don't feel it's proper, indeed I feel it's quite improper, to involve the judiciary in a debate on matters of public policy. I think it strikes at the foundations of the independence of the judiciary. Therefore I think that to have specific correspondence from individual members of the court or chief justices to me on this issue would place their names and presence before the Assembly and will no doubt make them part of the debate, which I think would be inappropriate.

I should say, Mr. Speaker, that the views of Chief Justice McGillivray and Chief Justice Milvain were in part already communicated in public by an unauthorized release of certain correspondence in *The Calgary Herald* which substantially embarrassed both chief justices. It was clearly not done with their authority or consent.

I do not feel that this House should move to, I think, exacerbate that difficulty. But I'm happy to discuss the views of the judiciary in the course of dealing with merger, if that would satisfy the Leader of the Opposition.

MR. SPEAKER: Is the hon. Attorney General debating against the motion or asking the mover to withdraw it?

MR. FOSTER: Mr. Speaker, if the Leader of the Opposition finds my comments have any merit, he may choose to withdraw it. If not, I would be speaking against the motion, and invite the House to turn it down.

MR. CLARK: Mr. Speaker, I am not prepared to withdraw the motion for a return. If following the comments of the Attorney General any other member wants to speak before I close the debate, I think they should have the opportunity.

MR. SPEAKER: May the hon. Leader of the Opposition conclude the debate?

HON. MEMBERS: Agreed.

MR. CLARK: Mr. Speaker, in concluding the debate on this motion for a return, we purposely have waited until very close to the end of the session when the court merger legislation is going to be concluded. Mr. Attorney General, that is the reason this motion did not appear earlier. If this motion were approved today, sir, we wouldn't get the letters tomorrow, I'm sure. But we could get them in the very early part of the spring session; that is, some three months after the legislation has been dealt with.

It is not my intention to involve members of the judiciary in the discussion, using names and so on, but I do think it should be a matter of public record. The pros and cons, the information should be available to members of the public once the legislation has been dealt with. That's why we have not moved this motion until this time.

With great respect, Mr. Speaker, I would ask the Attorney General to reconsider his objections, keeping in mind that the information would not be public until after the legislation has been dealt with by this Legislature.

[Motion lost]

head: GOVERNMENT BILLS AND ORDERS
(Second Reading)

Bill 74
The Partition and Sale Act

MR. FOSTER: Mr. Speaker, I believe on moving first reading I indicated that Bill 74 is an attempt to respond to Report No. 23 of the Institute of Law Research and Reform, the report on partition and sale. The report outlines the fact that this is a very technical area and that the law to provide for the division of real property or the proceeds of sale of real property as among co-owners is to be found in three old English statutes, two of Henry VIII and one of Queen Victoria, which curiously enough are law enforced in this province.

It is the intention of this bill therefore, Mr. Speaker, first of all to codify much of the law of partition and sale as we know it today arising out of these English statutes and the progress of the courts, and more particularly to respond to Report No. 23 from the institute. I acknowledge that it is quite technical.

There is a second element in this which I think I also indicated on first reading: that in the spring of 1976 we endeavored to pass an amendment to The Planning Act in this Assembly. At that time it was the government's intention to make clear that while orders for partition and sale issued prior to May 1976 were valid in themselves, in that they did not need to have the concurrence of The Planning Act or the subdivision and transfer regulations, subsequent to the passage of that amendment such compliance was indeed necessary.

Since May 1976, when the amendment of which I have spoken was passed, some doubt has been cast on the state of the law. It is therefore the government's intention to clarify that state in the latter amendments of Bill 74, to make it clear that orders for a partition and sale granted before May 1976 or thereabouts did not need the consent of The Planning Act, but orders issued since that time will of course require that concurrence.

MR. CLARK: Mr. Speaker, in taking part in the debate on second reading of this bill I would remind members of the Assembly of the comments made by the Attorney General when he introduced the bill. Among other things he said: ". . . which confirm the government's intention with respect to The Planning Act . . .". Now I'm going to refer several times in the course of my comments to that comment the Attorney General made the day the bill was introduced.

Mr. Speaker, I have no intention of supporting this bill. I plan to oppose the bill. I plan to do all I possibly can to get the government to withdraw Section 16. I want to say at the outset, Mr. Speaker, that, as you know very well, sir, I am no member of the legal profession. But let me say this: when I look at the bill before the House today, especially Section 16, I find us in a situation of once again passing retroactive legislation. In this case the retroactive legislation has a direct impact on one of the members of the Assembly, the Attorney General. Mr. Speaker, I simply have no choice but to outline to members of the Assembly why I think it is extremely dangerous if we move with the proposed amendment in Section 16 which deals with this question of partitioning orders.

Mr. Speaker, I want to go back for a moment or two. A number of members of the Assembly have heard from some of their municipalities which, over the past year, have expressed concern about partitioning orders which were used by some people — not a large number. I'm told the number is close to perhaps 20 partitioning orders granted across the province that we're really concerned with here. Perhaps one can focus on the MD of Foothills, the area south of Calgary, where this partitioning order situation really started, as I understand it. My understanding of the situation is basically this: when subdivisions weren't approved by local planning authorities, groups, individuals, got together, acquired pieces of land, and then went the route of acquiring petitioning orders, completely breaking the spirit of The Planning Act. Now today we're being asked here in second reading, Mr. Speaker, to give approval in principle to this kind of legislation. I for one simply cannot approve this kind of retroactive legislation. I want to outline to the Assembly why I think it's very dangerous for the Assembly to approve this kind of legislation at this particular time.

First of all I want to remind members of the Assembly that on November 19, 1976, the court of appeal rendered a decision in what is referred to as the Wensel case which has impact on the MD of Foothills, in that case giving in part its decision, the procedure to be followed where persons seek to circumvent The Planning Act via consent partitioning orders. The recommendation the court made in November 1976 was that municipal districts are to sue seeking damage and reinstatement of the previous title or titles prior to subdivisions.

Now what's happened since then, Mr. Speaker, is that municipal districts started the lengthy procedure in certain cases so reinstatement of titles could be made where consent partitioning orders have occurred circumventing the spirit of The Planning Act. I refer members to the situation in the MD of Foothills. The result of not going the planning route but going the route of getting a partitioning order is that no reserves are made available to the province for parks, schools, churches, or roadways; no plan of survey is filed; no subdivision fees are paid; and The Planning Act, as I said earlier, is circumvented. The law of the province, enacted to allow orderly development of the province and to ensure protection of certain delicate regions of the province, is not being lived up to. And we're being asked here this afternoon, Mr. Speaker, to go back and pass retroactive legislation dealing with cases which are presently before the courts or may come before the courts. That's what we're being asked to do here.

Earlier in my remarks I said that this has a direct impact as far as the Attorney General is concerned. On February 22, 1972, a group known as Legum Management Ltd. purchased property known as the Sylvan Lake properties, and Legum applied for subdivision approval to the Red Deer planning commission. The subdivision approval moved along until a Mr. John Harrower, the director of the technical division, department of lands and forests for the province, refused approval of the subdivision. The basic reason he refused the approval of the subdivision was that there was a dispute where the boundaries were between this private land owned by four individuals and land of the province, because it abuts on Sylvan Lake.

June 25, 1974, the Legum Management group applied to Mr. Justice C.J. Milvain for a mandamus directing the civil servant to give his consent, and the order was granted by Mr. Justice Milvain. This was then appealed to the appellate court. The court of appeal quashed Mr. Justice Milvain's order and directed that a trial be held to settle the dispute between Legum and the province regarding the boundaries between Legum and the province's land, the water line at Sylvan Lake.

But for some reason, Mr. Speaker, Legum didn't follow the direction of the court. It was on August 27, 1975, as I say, Legum didn't proceed with the trial that had been suggested, but transferred the land from Legum Management Ltd. to Beames, Foster, McAfee, and Chapman in an undivided, one-quarter interest. It's important that we remember an "undivided, one-quarter interest", because that did not give subdivision to any of the owners.

Now on November 3, 1975, the transfer was registered in the names of Beames, Foster, McAfee, and Chapman, each as to an undivided, one-quarter interest. Then on December 9, 1975, once again Mr. Justice Milvain granted an order allowing partition of the land in the names of Beames, Foster, McAfee, and Chapman, each as to a divided, one-quarter interest, allowing The Planning Act to be circumvented. That was in December 1975, when Mr. Foster was the Attorney General.

Then on November 19, 1976, the court of appeal rendered a decision in the Wensel case, which I mentioned earlier, giving in part its decision, the procedure to be followed where persons seeking to circumvent The Planning Act via the consent partitioning orders, municipal districts were directed by the court to sue seeking damages and reinstatement of the previous title or titles prior to the subdivision. So what was really being said here to groups in the MD of Foothills and others like the group at Red Deer, who had not gone the ordinary planning route but had got a subdivision as a result of legal action, albeit legal action that followed the law but certainly did not follow the spirit of the law from the standpoint of

subdivision legislation and the spirit of the subdivision legislation in this province.

But the court said: where this has happened, municipal districts or parties that feel they're affected should sue seeking damage and should sue to get reinstatement of the previous title or titles prior to subdivision. Now if this piece of legislation in Section 16 of this act today, retroactive legislation, was not before it, it would mean that the present cases municipal districts have before the courts could continue with the suits that are suggested here.

With regard to the specific case I outlined at Red Deer in the Sylvan Lake area, it would be possible for the county of Red Deer or others that feel they were adversely affected to lay suit against the individuals who got the land subdivided not by The Planning Act, who went around The Planning Act. But the legislation we're being asked to approve today prevents that. It prevents that, Mr. Speaker.

MR. GHITTER: Read the whole case, Bob, not just what's preferable to you.

MR. CLARK: I have. Then on October 26, 1978, the Attorney General introduces the legislation which, he says, "confirm the government's intention with respect to The Planning Act". Section 16, the retroactive section, is anything but in keeping with The Planning Act. It's retroactive legislation and, in principle, bad law which should only be passed to correct emergent situations.

Now I know, Mr. Speaker, that certain members of the Assembly and of the legal profession will point out to us that this legislation is being brought in to look after individuals who may be caught in a particular situation here, who didn't know they were getting involved in this kind of situation when they bought the land. I would point out to my friends in the legal profession that The Land Titles Act of Alberta, as well as the equitable relief granted by the courts, allows that these innocent parties would be protected. There's no need to bring in this kind of retroactive legislation to protect those people who would be innocent victims. The Land Titles Act will look after that, and certainly the equitable relief granted by the courts would look after that.

But in this case, Mr. Speaker, the Attorney General is not an innocent party. This very legislation that he sponsors in the House is going to give the land that he has an interest in in that Sylvan Lake area at Red Deer complete immunity from here on. That just is completely, completely unacceptable.

I say this as genuinely as I possibly can: I see this being an abuse of the Attorney General's position to introduce this legislation and, further, a breach of trust with the people of the province to circumvent The Planning Act. The Attorney General is the person who will get the personal gain as a result of this. It's a blatant circumvention of the act, a law of the province which the Attorney General is bound to uphold. He's the chief law enforcement officer of the province. It's through the Attorney General's Department that the Legislative Counsel's office comes to this Assembly. And to be bringing this kind of legislation in, Mr. Speaker, is totally, totally unacceptable.

There's nothing notorious in the consent partitioning order that the Attorney General is involved in. It circumvents the law of the province and The Planning Act. It allows the people involved to prevent going to the courts of the province on a dispute as to where the property ended and where the province of Alberta commenced. This group didn't take the advice of the Alberta appeals court and, in fact, have a trial to see where the property line really should be. No, they went this other route. It allows the group involved not to pay subdivision fees, file surveys, or give reserves for recreational areas, roadways, churches, or schools for the province for the benefit of the citizens of Alberta.

When the decision on the Wensel case came upon the scene in November 1976, it made it apparent that these individuals might have their land reinstated to the previous position of undivided one-quarter ownership. Recognizing that, and that took place in November of 1976, this legislation was then drafted and brought before the House in a manner that I find totally unacceptable, totally unacceptable.

The facts as I see them — and, Mr. Speaker, I'm quite prepared to table with the Assembly the following information: certificate of title of Legum Management Ltd.; transfer of land from Legum to Beames, Foster, McAfee, and Chapman; copy of certificate of title; notice of appeal; judgment of the appellate division; originating notice of motion for consent partition order; affidavit in support of same; order of C.J. Milvain allowing property to be partitioned; copies of certificate of titles showing property names; copy of cancelled certificate of title of Mr. McAfee; copy of transfer of land; notice of change of directors; and the annual report of Legum Management. I want to file this with the Assembly.

Mr. Speaker, I look at this legislation, and I simply cannot condone or understand, even come close to understanding, why the Attorney General would be bringing in this kind of retroactive legislation without at least telling the Assembly himself that he stands to benefit from it. Because what this legislation will do is prevent, forever and a day, a case being laid against this particular group in this Sylvan Lake venture during a period of time when there are presently cases before the courts in the MD of Foothills, and the same action to be taken in the Red Deer area which would force the four people who got their land subdivided, not by The Planning Act but by another route, would force the subdivisions to be thrown out and the land retained in the state it was initially.

I simply cannot support this legislation, Mr. Speaker. I'm extremely disappointed that the Attorney General would not have levelled with this Assembly, either on first reading or second reading today, that he is very much involved in this. He chose neither occasion to do that. He and his colleagues possibly stand to benefit here. This is the chief law enforcement officer of the province. I might also add — and I do this with some trepidation, too — that one of the other gentlemen who's involved with the Attorney General, Mr. Beames, is the president of the Law Society of Alberta today. We look up to both gentlemen.

Mr. Speaker, I cannot accept this kind of legislation. I think it's rotten in principle. Frankly, I think the Attorney General should resign.

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

HON. MEMBERS: Agreed.

MR. FOSTER: Mr. Speaker, I'm not so naive as to present legislation to this House that's going to benefit or profit me. I expected an attack from somebody, principally the lawyers from Foothills. I am surprised that the Leader of the Opposition hasn't done more of his homework, because I'm not about to put legislation through this House to benefit me.

I think he should check and discover that the county of Red Deer approved my property deal. The regional planning commission approved my property deal . . .

MR. CLARK: The first time.

MR. FOSTER: . . . and if this legislation passes, it doesn't take away from me or give me anything I don't have now. Mr. Speaker, even acknowledging the obiter dicta in the Wensel case, the county of Red Deer is not in the situation with me qua partition orders that the county of Foothills is in in some other jurisdictions. I would not be presenting legislation before this House if I thought there were a shadow of a doubt that I could benefit in any way. I say this to the Leader of the Opposition: my goodness, you have known me a long time, and I am not so foolish that I would do that.

There are hundreds of titles in this province that are clouded by the obiter dicta in the Wensel case. Indeed, there are legal proceedings commenced. The only municipalities likely to even consider commencing proceedings pursuant to the obiter dicta in the Wensel case are those where there was not planning approval in the first place. That does not include my case at all. Talk to the county of Red Deer if you want, or talk to the regional planning commission. I suggest to you — at least my information is — that they have no difficulty with that. They have no difficulty with those titles at all. If this legislation is never passed, I am not in any position of jeopardy from the county of Red Deer or the regional planning commission taking any action against me. If I am, I ought not to present this legislation, and I shouldn't be proceeding. But I don't stand to gain anything, Mr. Leader of the Opposition, and I'm surprised it's come up in the way it has.

You've made a lot of to-do about Mr. Harrower and the fact that he withheld planning approval. On my matters Mr. Harrower withheld approval of the province because of the high-water mark. The court directed a trial of an issue, and the issue was directed, and Legum Management Ltd. did proceed with that. The other party, having considered their case, decided not to proceed. The issue was discontinued by the other party, not by Legum and not by myself in my personal capacity. I invite you to check the record on that point.

I simply would not be here, Mr. Speaker, proposing a piece of legislation that could put in jeopardy me personally, or my office, which is even more important. I'm rather surprised that the Leader of the Opposition is making the statements he is today. The Wensel case didn't stand for the decision and didn't recommend that municipalities would necessarily have a good cause of action against persons who had partition orders. That was obiter in the case. I don't believe that that case is good law at all. I don't believe that counsel for Foothills believe it's a good case.

But to get specific, Foothills has commenced a number of legal proceedings in the hope, I suggest, of having people cave in and make a deal with them to get these titles cleaned up, as it were. The fact is, Mr. Speaker, that hundreds of titles to land in this province are clouded by the obiter in the Wensel case. If there's one fundamental principle of the torrens system, it's a guarantee of title. Those who have partitioned titles, or titles that were acquired by partition orders where there was not planning approval in the first instance, live with that cloud. You cannot tolerate that kind of uncertainty in the planning system. Therefore the government is proceeding to put that issue to bed.

I don't blame the county of Foothills for being a little upset. I don't blame many municipalities for being upset with partition orders that were issued prior to May 1976. Because they argued then, and I believe incorrectly, that you say the spirit of The Planning Act applied. The spirit of The Planning Act probably did apply, but the letter of The Planning Act did not. There are all kinds of judgments and orders on that point. All we're saying is that if you got a partition order before '76 and didn't have Planning Act approval, you don't live with the cloud that the court of appeal of this province, as obiter in the Wensel case, leaves with these people on titles.

I'd like the Leader of the Opposition to reconsider his remarks, because, if on reflection and discussion with any legal counsel he wants, he feels that I am in some way profiting or benefiting by this exercise, I'd like to take counsel on the matter. Because that's not my understanding whatsoever, not whatsoever. You talk about the Harrower matter. That was an issue between Legum Management and the Crown at that time. It had nothing whatever to do with partition and sale, and nothing whatever to do with this legislation.

I don't agree with the Leader of Opposition that The Land Titles Act provides some sort of equitable relief for the parties involved. The cloud will stay there. Any third party acquiring a title which has come into existence by a partition order would live with the cloud that a county or another authority might at some time in the future commence proceedings against them. The assurances under the land titles system may be successfully attacked down the road — tomorrow, next year, several years from now. The torrens system cannot live with that kind of uncertainty. Therefore the government is moving in this way.

Mr. Speaker, I don't blame municipalities for being upset over this, because they see . . . The Leader of the Opposition talked about members of the legal profession benefiting from this. Sure, there have been many members of the legal profession who, seeing this so-called loophole in the law, took advantage of it, and many municipal councillors are no doubt unhappy with the fact that lawyers and a few doctors have probably been the principal beneficiaries of the fact that you could get partition orders before May 1976. Be that as it may, we're not in the business of protecting the interests of lawyers or doctors. We're in the business of protecting the interests of all citizens of this society. We wouldn't be moving on this solely to protect one individual group, or indeed me.

I think I have dealt with the issue, Mr. Speaker, perhaps not to the satisfaction of the Leader of the Opposition. If I haven't, between now and committee study of the bill I'm happy to meet with him and discuss it. But I don't have any hesitation in my mind that I stand here foursquare, not benefiting or profiting or in any way gaining anything as a result of this initiative. Because the only person who is going to attack a title I have at the moment, acquired by partition, would be the county of Red Deer or the regional planning commission. As I understand it, and maybe I need to check it . . .

MR. CLARK: You don't have the approval of the Red Deer planning commission, Mr. Minister.

MR. FOSTER: My understanding is that we met all the requirements of the planning authority in the partitioning of those titles. If that needs to be reconfirmed, I will take steps to do so.

MR. CLARK: Mr. Speaker, may I say simply, and this may be most . . .

MR. SPEAKER: The hon. leader's further remarks are quite out of order unless he has the consent of the House. In fairness, if he's going to have further remarks, that detracts from the hon. minister's right of rebuttal unless he's given the right to make further remarks as well.

MR. CLARK: Mr. Speaker, then I ask the Attorney General a question. Will the Attorney General give undertaking to the Assembly that he will check immediately with the Red Deer planning commission to see if the commission has given its approval to this matter?

Could I ask a second question of the Attorney General? In light of what the Attorney General has said, is he prepared to make a change in the amendment which sets the date May 20, 1976, back to December 1, 1975? Then, Mr. Attorney General, the case you're involved in would not have the benefit of Section 16.

MR. FOSTER: Mr. Speaker, I don't seek the benefit of Section 16, and if there's something I can do to avoid "benefit" of Section 16 I'll be happy to do it. I stand here in the honest belief that I acquire nothing by way of benefit or advantage from this initiative. If I am wrong in that, I will withdraw my participation in this. Mr. Speaker, I would not put myself in a position like this, nor with my colleagues in this Assembly. I would not knowingly do so, and I would hope the Leader of the Opposition can accept that from me point-blank. And if I need to do some things to further ensure that James L. Foster does not benefit in some way from legislation which he proposes; my God, I am quite prepared to do so, assuming of course that my government colleagues are prepared to take the time to allow it to be done. If not, the bill will simply die and the next Attorney General, who won't be me, may or may not deal with the matter. [interjection] Fine.

I'm not saying the bill will be withdrawn. But I am certainly happy to do everything I can, before this bill moves any further — into committee, beyond committee — to ensure that yours truly is not benefiting in any way. And I say to you that if this legislation does not pass and the situation is left as is, I do not see any basis whatsoever for the county of Red Deer or indeed the planning commission, but in this case the county of Red Deer as the municipal authority responsible for the title I own in Sylvan Lake, having any capacity whatsoever to succeed in an application such as the Foothills examples. None whatever. And if I'm wrong in that, I'll withdraw the matter.

[Motion carried; Bill 74 read a second time]

[On motion, the Assembly resolved into Committee of the Whole]

head: GOVERNMENT BILLS AND ORDERS
(Committee of the Whole)

[Dr. McCrimmon in the Chair]

MR. CHAIRMAN: The Committee of the Whole Assembly will now come to order.

Bill 32
The Court of Queen's Bench Act

MR. CHAIRMAN: Are there any questions, comments, or amendments to be offered with respect to any sections of this bill?

There are several amendments to this bill. Are you familiar with the amendments?

MR. FOSTER: Mr. Chairman, I'd like to say a few words with respect to the amendments to Bill 32.

I should say that since this bill was introduced in the Assembly, I have had the opportunity of meeting with members of the district court, members of the trial division of the Supreme Court, and a number of lawyers, and of carefully considering the provisions. We have had a good deal of correspondence on the matter from around the province.

The amendments break themselves down into eight or nine categories, which I'd like to just run through quickly, if I may. There are a number of consequential amendments to this legislation which are not significant for the purposes of the House at the moment. There are some drafting errors and changes in wording in some cases, which are being corrected. There are some amendments which have to do with the Chief Justice having the capacity to step down and accept another office. That is included here. There are amendments to provide that when this legislation comes into play, any supernumerary district court judge would continue as a supernumerary in Queen's Bench.

There is a substantial amendment to the matter of the residency of judges. I think I indicated in second reading that my objective has always been to ensure that before judges embark upon their duties or take up their office on appointment, they reside at or in the neighborhood of a city approved by the Attorney General. I did not wish to have the capacity to direct that any sitting member of the court necessarily move from one community to the other. The amendments outlined here make clear the government's intention to have, in time, resident Queen's Bench judges obviously in the cities of Edmonton and Calgary; addi-

tionally, Lethbridge, Medicine Hat, Red Deer, and Grande Prairie. I, or the Attorney General of the day, will use his best efforts to ensure that that takes place. I want to emphasize that the question of residency of judges is important, particularly to the smaller centres outside Edmonton and Calgary. I think the amendments, as drafted, will achieve the objective sought, notably by bar associations outside the major urban centres.

There have been a few time changes in the legislation, including the effective date of the act, which is now June 30 rather than July 1. I should say to this Assembly that since we last met on this matter in second reading, the government of New Brunswick introduced and passed a Court of Queen's Bench act which will come into place next year.

Further, Mr. Chairman, we have chosen to codify in statute an informal practice that has existed for some time; that is, the advisory committee on the rules of court. We felt it appropriate that we structure this in this legislation to require that the Attorney General consult with the Chief Justice before rules of court are passed, particularly those relating to the times and places of sittings, for obvious reasons, and secondly that a rules of court committee, representative of the chiefs of the courts or their designates, two members of The Law Society, and one person appointed by the office of the Attorney General, be struck in the statute to consider the rules of court which, as I think we all appreciate, are proposed to be passed by order in council.

We encountered substantial difficulty, Mr. Chairman, with the jurisdiction of the court. Consequently we have chosen to make certain amendments which make it clear that the jurisdiction of the Court of Queen's Bench will be that jurisdiction which the supreme and district courts currently have, as they are found principally in The Judicature Act. I want to emphasize that The Judicature Act needs a considerable amount of work and review. Pursuant to commitments sought and given by and to The Law Society of Alberta, The Canadian Bar Association, and in some cases the judiciary, we will be embarking upon a thorough review of not only The Judicature Act but the jurisdictions of the several courts.

None of the legislation before this House right now deals in any significant way with jurisdiction of courts. We were asked that before we proceed further, we do a study of that kind and deal with jurisdictional shifts later, which of course I'm prepared to do. We'll put that in place as soon as possible.

There is another amendment to provide that a member of the Court of Queen's Bench might sit as a member of the court of appeal without the necessity of consent from the Chief Justice. We have been in touch with federal Justice on this legislation and, to the latest point that I am aware, they're happy with it.

Now, a word or two about my consultation with the judiciary. There is no doubt that some members of the judiciary are not excited about the Court of Queen's Bench. In fact you could easily go further and say that some are clearly opposed to the concept of a Court of Queen's Bench. They prefer to maintain the existing two superior court structure. That's a good, healthy debate. We just happen to disagree with those who take that view. Incidentally, Mr. Chairman, I discussed the substance of the amendments to Queen's Bench with the benchers of The Law Society when I met with them a short time ago in Edmonton, and I think it's fair to say that they endorse the changes being made, find them an improvement and workable, and are happy to see them.

I don't want to minimize the controversy; at the same time I don't want to add fuel to speculation. The simple fact is that we have taken the position that a single superior trial court with the jurisdiction of the Supreme and district courts is a logical, reasonable move. I emphasize to the House that their jurisdictions are almost identical today. I don't want to downplay the objections of the court; at the same time we have simply, after a great deal of discussion and debate over three years, come to the conclusion that this matter should proceed and at this time.

A few other changes I think were recommended by members of the judiciary. One that we're not moving on it at this time stands out; that is, the office of associate Chief Justice. My view is that we ought not to place an associate Chief Justice in this legislation at this time. There will be a new Chief Justice in the Court of Queen's Bench next February, and if he requests an associate I've undertaken on behalf of the government that we would of course move to do so.

A number of fairly technical points were raised by the judiciary and others. I think we have managed to accommodate to them. I should say that the joint committee of the Law Society and the Canadian Bar, the committee of lawyers who looked at this, including the Law Society itself, wrote us several very useful suggestions — most, if not all of which we have accommodated. However, we were not able to accommodate ones with a philosophical approach. Some felt we should not proceed in this fashion but should revert and simply amend The Judicature Act rather than have a separate Court of Queen's Bench. Now that's a philosophical point we passed long ago. Our position is that while the Supreme Court of Alberta is being continued for obvious constitutional reasons under the name and style of the Court of Queen's Bench, we felt it would be better to appear to create and in fact to create a new court which members of the district court and of the trial division could come to anew, as it were.

Mr. Chairman, I think I have generally summarized the changes we have in mind. I want to point out it is not proposed that this legislation come into play until next June. The House will be meeting in the spring. If there are operational difficulties or other matters that others raise with us between now and then, I'm sure this Assembly will be quite willing to make the appropriate amendments next spring to cure any further defects. I say, however, I think we have benefited greatly by having left this legislation on the Order Paper over the summer and having had the opportunity of meeting with various parties. I would be quite happy to discuss any particular matters members of the House may wish to raise.

MR. HORSMAN: Mr. Chairman, I wish to add a few remarks with respect to the amendments with regard to the residency of judges. In speaking to second reading of this bill and in my remarks on the throne speech debate this spring, I raised the concerns that I have heard from members of the bar in southern Alberta, in particular. From my own practice I have had the opportunity of observing what is taking place

with regard to judicial services being provided at both the district and Supreme Court levels. I think it's fair to say that the basic concern expressed related to this question of residency. Therefore I welcome indeed the inclusion of a legislated requirement of residency of one or more Queen's Bench judges in the communities of Grande Prairie, Lethbridge, Medicine Hat, and Red Deer, in addition to the large metropolitan centres of Calgary and Edmonton. I think this will go a very long way indeed to putting to rest the concerns expressed by members of the southern bar association.

All members will recollect that they received a letter from a group of southern lawyers before the session commenced this fall. I should point out to the Assembly that I attended the meeting in question in Lethbridge, and there's no doubt that the concerns of that meeting were basically those of residency, providing that judicial services at the high court level will be available to the people who reside in the various communities and to prevent the necessity of extensive travelling by the clients, witnesses, and lawyers involved in various legal actions. So I do think this legislated requirement will go a very long way to putting to rest the major concerns of those who have expressed them in a public way and to members of the Assembly.

I just wish to make these few remarks and to say that I welcome the announcement by the Attorney General and his remarks in committee that a joint committee will be set up to consider jurisdictional questions. Those recommendations flowed from the Law Society of Alberta and The Canadian Bar Association, Alberta Branch, and I think are appropriate and will certainly also help to improve the administration of justice in the province once those conditions have been made and hopefully implemented by this Legislature at some future time.

So, Mr. Chairman, while I have had concerns in the past and expressed them in the Assembly, I did feel it was appropriate at this stage that I should particularly express my approval of this amendment to Section 6 and welcome it. I think it's important as well to point out that there is what we might call a grandfather clause here, which will help to alleviate in a major way the concerns I have heard expressed that it would be possible to sort of exile to some such remote place as Medicine Hat a judge who did not suit the Attorney General.

MR. JOHNSTON: That would be a reward.

MR. HORSMAN: That's a reward. I quite agree.

But that concern was expressed. I do think the question of residency should not in itself be regarded as the sole factor, because no doubt the judges who reside in the smaller centres throughout Alberta will be required to go on circuit in the normal way, as directed by the Chief Justice of the new court, and therefore will be very much in the mainstream of the judicial system and the administration of justice. It is important to note that no judge presently sitting on either the Supreme or district court will be forced by the legislation or the Attorney General to move from his present residence to a smaller community. As new judges are appointed, the requirements of the act will be implemented. Therefore I think it won't be too long before it will be possible to have a further decentralization of the administration of justice through this legislation. Therefore, I think it's important to point that out and to welcome the amendments we have before us today.

MR. NOTLEY: Mr. Chairman, I don't pretend to have any expertise at all in this question, but several questions have come to my mind. The first is with respect to the benchers of the Law Society. Are we to understand that notwithstanding the concerns of some of the judges in this province, we have a unanimous position from the benchers, or in fact a majority position? I would be interested in that.

The second thing, Mr. Chairman: I listened with interest to the comments made by the hon. Member for Medicine Hat-Redcliff. Obviously, it struck me that one of the concerns would have been this residence feature, whether or not people will be shifted from Edmonton, for example, to some of the other communities. Apparently the amendments take care of that concern.

But I would be interested, Mr. Chairman — and I realize the Attorney General is under some constraint in the sense that you don't really want to throw the whole thing out on the table, because it's a relatively sensitive question and we are dealing with the judiciary. I don't want to turn the judiciary into a political football, but at the same time I do think this committee has an obligation, in fairness to some of the concerns of the judges themselves that we hear are there, to sort of insist that we get answers in any way, shape, or form. Obviously, they're still going to be honorable judges, but are we going to be qualifying any of the things that have been built up in terms of the sort of standards of everything from clerical assistance, Mr. Minister, to the sort of 'perks' of the office? Is there going to be any possible erosion in this area? To be fair to the judges, I think their real concern is their role in the interpretation of the law. Are we in fact going to be downgrading those judges, particularly those who have been sitting on the appeal court?

MR. FOSTER: Mr. Chairman, a long time ago — I've forgotten the date — the council of the Canadian Bar passed a unanimous resolution in favor of the concept of merger. To that they attached the rider that if merger is to proceed there must be provisions in the legislation that deal with the residency of judges to ensure that, in time, judges reside in centres outside Edmonton and Calgary. To refresh your memory, The District Court Act provides that the Attorney General may determine where judges reside for those purposes. The Judicature Act, which deals with the Supreme Court of Alberta, has never done so. So I welcome the initiative by the Canadian Bar on that point.

The benchers of the Law Society were less equivocal in their position at the outset, and really to this day have not taken as firm a position on the matter as the Canadian Bar. They have, in my judgment and from my meetings with them, endorsed merger. They have gone beyond that, however, and said that before you proceed beyond merger to tinker around, as we must, with the jurisdictions of these courts — for example, how are we going to handle the question of family law, unified family structures, and the like — before you do that, would you kindly mount a major

review of the jurisdiction and suggest where it should go. My initial objective was to merge the courts and deal with some of the jurisdiction at the same time. For example, I think surrogate matters could be handled by masters in chambers and provincial court judges. It doesn't have to be handled by a Supreme Court or Queen's Bench judge. I think certain civil matters should be handled by provincial court — a modest increase in time in their civil jurisdiction. A number of family law matters should be handled by provincial court judges rather than district court judges. There's a bit of tinkering around. It's not tinkering; I don't mean to be disrespectful. It's significant, but minor by some people's standards.

There is a suggestion that we have to do something with the workload of the court of appeal and how we handle cases going in there. There needs to be a study on that element of it, and that's fine.

So I'm standing here today saying that the appropriate legal bodies in this province, the council of the Canadian Bar and the Law Society, either strongly or generally endorse the concept and wording of what's here. That gives me great comfort. In my view the majority of lawyers working in the courts find this an acceptable move — some of them enthusiastic. Sure I've had a little correspondence, some saying don't do it. But generally speaking it's regarded by the profession as a solid initiative. And I rather facetiously say that any time lawyers generally agree that what's being done is a good idea, you know rather well it's an idea well past its time. I think that statement can be made, not intended to be humorous.

With respect to the second concern about the status, the standards, the 'perks', or the rank of judges, this kind of thing, there will be some changes. After all, you've got a district court bench and a Supreme Court bench, and within the hierarchy of the courts the district court is seen as a lower court — which is an expression I dislike very much; I can't find a convenient word to replace it with — then the trial division. They will now become one court, so it will become a larger court. They will have a new name, which I personally think is most suitable and fitting. Others perhaps don't; I do and the government does.

There will be some change. But in my view at least, in terms of the rank of the judges they will be superior court judges. There is nothing at all in the British North America Act that requires this province or indeed any other province to have two superior courts, as I said in my comments on second reading. There was some concern among the judges that we include in this legislation . . . I forget the section. It's in The Judicature Act, having to do with rank and precedence of judges. It's largely the custom and usage of the court, tied almost directly to the date of their appointment. Certain 'perks' flow from that — the size of their offices and that kind of thing. That, in my view, is not a proper place for legislation. That's the custom and tradition of the court which grows up over years of practice.

So I don't see any erosion or downgrading in the status of the court. Some might argue that there is an enhancement of the status of the court, because you don't have two courts now trying to do the same job and a good deal of public confusion on the matter. You've got one court. We'll have to be vigilant, however, to ensure that our court staff do not conduct themselves in any way which would leave the impression that there is a difference in rank. I can't imagine court staff doing that. I can't imagine lawyers doing that. I just don't see any possibility of our staff or the profession reacting in that way. In fairness there are good judges and perhaps judges not so good, because they're human beings, in both courts. Some will argue that the court has been strengthened because of the merger. Some will argue the courts have been weakened because of the merger. As far as I'm concerned, it's an academic discussion and not one I'm particularly interested in engaging in.

I stand here frankly saying to you, Mr. Chairman, that standards, 'perks', rank, precedence, and status are in some respects subjective. Those who find them particularly subjective may find a difference. I've said before that these two courts are a distinction without a difference, and I don't think there should be any difference.

MR. GOGO: Mr. Chairman, I'm very pleased the Attorney General has seen fit to listen to representations from members of the Assembly. The fact that New Brunswick had passed similar legislation — I see in no way the similarity why Alberta should go, because I think geographically Alberta is substantially different from the province of New Brunswick.

I, and I'm sure many other members of the Assembly, received representations from constituents about the question of residency. I'm very pleased the minister has agreed to amend that legislation. I think that's welcome to all members in the Assembly. The Attorney General's comment that when lawyers agree on anything, it's probably well past its time —I would tend to think that when lawyers agree on anything, it's time to be very, very careful.

However, two short questions for the minister, if he'd care to respond. Does the Attorney General believe there will be any additional cost against the system as a result of Bill 32 going through? Secondly, Mr. Minister, do you perceive any delays in the administration of justice in communities outside of Calgary and Edmonton as a result of our passing Bill 32?

MR. FOSTER: Mr. Chairman, two very good questions. Of course there will be the reorganization costs of having to put two courts into one, change names and forms, and that kind of thing. Some of that will be borne by the federal government and some by the province. But I know that's not the cost factor you're specifically referring to. I would like to believe that there will be cost savings to the Crown. But more particularly I would like to believe that there will be cost savings to the litigants, particularly in centres outside Edmonton and Calgary where for some circumstances you have to wait until a Supreme Court judge or the district court judge comes to town, and there is a delay.

Having said that, I acknowledge that there are very few jurisdictional differences between these two courts, and that's largely the rationale for merging them. But there are some. And there is some delay and therefore some attendant cost. Vesting all authority in a single judge makes sense to me, particularly outside Edmonton and Calgary. Additionally we have to ensure that the circuits of the court are organized in such a way that there is judicial repre-

sentation or presence in these urban centres on as frequent a basis as is reasonably necessary to meet the legal demands. We've gone beyond that, Mr. Chairman, in the sense that in time we hope to ensure that there is at least one resident Queen's Bench judge in places like Lethbridge. You have two at the moment, but former Chief Justice Turcotte is supernumerary at the moment, I believe. Medicine Hat has no judge. In Red Deer, my neighbor Judge Jack Holmes is there not because he's officially assigned to Red Deer. He's officially assigned to Calgary, which causes him some difficulty, but I would hope that he would stay in Red Deer; and in time someone in Grande Prairie.

I say at least one; I hope that in time there may be at least two judges in those centres, for purposes of collegiality and the like. It imposes on the Crown a little greater obligation to assist with travel costs and the like. But I believe that the litigants and therefore the public of the province will be at least as well served as is currently the case. Of course, I believe they'll be served better. I don't want to argue that there'll be substantial reductions in costs to the Crown and substantial benefits to the public. I'm not sure how significant they will be, but they are a factor.

Delays in the system? On the contrary, if what I have said makes any sense, and if the objective we seek is achieved, there should not be as much delay as there is now with the examples I've given. Perhaps that has something to do with the study I've talked about with the jurisdiction matters. If you can shoot a little more jurisdiction into the provincial court area or into resident masters in chambers — those persons are generally speaking more available across the province than superior court judges. I'm talking about provincial court judges now. Therefore they're closer to the communities. If they can assist in providing an expanded level of judicial service to the public, I'm all in favor of that, and I think the government would be as well.

But that's an area in which you have to move relatively slowly and cautiously. As an example, in Edmonton last March something like 2,000 cases, or at least many hundreds of cases, were commenced in one month with $2,000 as a maximum claim. If you were to shift even part of that into the provincial court system, you'd overwhelm it. We couldn't handle it. But I think we should begin to move a little more in civil jurisdiction. You see The Provincial Court Act, 1978, before the Assembly now; it doesn't change jurisdiction but it speeds up that process. I've had something to say about that of late.

In short, Mr. Chairman, I don't think it will delay; I think it will assist in streamlining and improving the system, although I have to acknowledge that some people don't agree with me. But I'm trying to be fair, reasonable, and objective. I hope I am being so. That is clearly the government's objective, and we'll rely on the judiciary and members of the profession to work together and make this work. The key to success in this system is in the hands of the judiciary and in the hands of the bar.

[Title and preamble agreed to]

MR. FOSTER: Mr. Chairman, I move that Bill 32 as amended be reported.

[Motion carried]

Bill 33
The Court of Appeal Act

MR. CHAIRMAN: Are there any comments, questions, or amendments to be offered with respect to any sections of this bill?

There are some amendments. Are you familiar with the amendments?

[Title and preamble agreed to]

MR. FOSTER: Mr. Chairman, I move that Bill 33 as amended be reported.

[Motion carried]

Bill 64
The Provincial Court Act, 1978

MR. CHAIRMAN: Are there any comments, questions, or amendments to be offered with respect to any sections of this bill?

There are some amendments to this bill. Are you familiar with the amendments?

[Title and preamble agreed to]

MR. FOSTER: Mr. Chairman, I move that Bill 64 as amended be reported.

[Motion carried]

Bill 13
The Collection Practices Act

MR. CHAIRMAN: Are there any comments, questions, or amendments to be offered with respect to any sections of this bill?

There are some amendments to this bill. Are you familiar with the amendments?

MR. HARLE: Mr. Chairman, just for purposes of clarity, the amendments we're referring to are the amendments dated October 24, which were distributed this session. Two amendments were distributed when this bill reached committee stage last spring. I would ask hon. members to disregard those. They've all been brought together and submitted as one set of amendments dated October 24, 1978.

[Title and preamble agreed to]

MR. HARLE: Mr. Chairman, on behalf of the member of the Legislature Mr. Tesolin, I move that Bill 13 as amended be reported.

[Motion carried]

Bill 34
The Landlord and Tenant Act, 1978

MR. CHAIRMAN: Are there any comments, questions, or amendments to be offered with respect to any sections of this bill?

MR. NOTLEY: Mr. Chairman, I didn't have the opportunity to participate in second reading of Bill No. 34. So while I'll be making some reference to certain clauses contained within the act, I'll also be dealing with some of the general philosophy behind Bill 34.

Mr. Chairman, it seems to me that in a sense we had really struck a bargain with the renters in this province when the government decided to remove rent controls. Pretty obviously the *quid pro quo* was that if rent regulation were to be removed there had to be a landlord and tenant act that had sufficient teeth to protect the tenants in this province.

Mr. Chairman, it's also a fact that as a result of some of the changing social patterns, as well as the rather dramatic shift in the cost of housing in this province — the government's own task force that compared the housing costs in Alberta and Montana showed that at present levels, only about three out of 10 Albertans will be able to own a home of their own. So what we face is that in Alberta in the years ahead a very large number of people, at least half the population and probably considerably more, will be renters or tenants. That being the case, it's my view that landlord and tenant legislation, while it has to be fair to the landlord, must set out pretty clearly some fundamental rights for tenants in Alberta.

I should just say, Mr. Chairman, that during the recent conference in Ottawa the newspapers in that province were carrying an announcement by the Ontario government that they were extending rent control in the province of Ontario until the end of 1979, and the increase next year will be only 6 per cent.

So we have a situation, Mr. Chairman, where we have rent decontrol, yet we have a bill presented to this Legislature which, in my submission, simply doesn't set out in a strong enough way the reasonable rights of tenants.

Mr. Chairman, surely tenants should have some security of tenure. Now I suppose committee members could argue that the tenant has security of tenure in two ways. One, the fair accommodations provisions of Bill No. 2, The Individual's Rights Protection Act, afford some right to tenure. A landlord can't turf somebody out on the basis of race, color, or creed. But that's still a pretty narrow definition. I suppose it could also be argued by some committee members that The Rent Decontrol Act affords some modest protection to the tenant. But I would say very modest protection, because here we're looking at a complaint to the commission on the basis of an increase in rent. Again, that's very narrow.

Mr. Chairman, a trade-off has been made in Bill 34 between setting out clearly in the act certain just cause for eviction, on one hand. We could enumerate the obvious areas of just cause for eviction. I've presented bills to the Legislature before, and we still have before the Assembly, Bill 208, which outlines some of the obvious legitimate reasons for eviction. But what we have in Bill 34 is not an enumerated list of reasons for just eviction, rather a three-month period for arbitrary eviction. If the landlord is going to evict for whatever arbitrary reason he chooses, providing he doesn't offend The Individual's Rights Protection Act or run aground of the rent decontrol legislation, he can go the eviction route provided he gives three months' notice. Mr. Chairman, I don't think that's a fair way to treat renters in this province: to exchange tenants' rights, the security of tenure concept, eviction only with due cause and legitimate reason on one hand, for three months' notice on the other.

I notice in this legislation, Mr. Chairman, that a landlord, were he wont to do so, could evict for almost any reason under the sun. If the landlord didn't like the hon. minister's politics, for example, and the hon. minister were renting accommodation, it would be perfectly legitimate to evict him [interjection] providing he gave three months' notice. I say to members of the committee, Mr. Chairman, surely it is not unreasonable to expect some protection.

Now I realize the Institute of Law Research and Reform examined this question. They didn't come down on one side or the other. They very legitimately came to the conclusion that this was a political decision. No one argues that it's not a political decision, Mr. Chairman. But I think the renters of this province have a right to expect from their political leaders a commitment to at least a reasonable set of conditions before the eviction process takes place.

Now, Mr. Chairman, we hear the argument presented by the minister and others that it's necessary to have this very, very generous eviction procedure to stimulate investor confidence. In a sense, I think that is saying something rather unflattering about the vast majority of landlords who are honest, good businessmen who, in my view, do not need the right of arbitrary eviction in order to make investment decisions. After all, what was the argument we heard in this House a year ago about the need to introduce a rent decontrol act? The argument was that if you're going to stimulate investment in the construction of apartment units, in expanding rental accommodation, there shouldn't be controls. But now we're saying that in addition to removing controls — Ontario is continuing controls; we're removing controls — even the kind of normal eviction standards that should apply are not going to apply in Alberta, because somehow that will reduce investor confidence.

Mr. Chairman, that's like saying we shouldn't have unfair trade practices legislation in the rest of the economy; for example, if the chap who is running a used car lot is putting heavy oil in motors and unloading junk to the consumer and we said, no, you can't do that because that's an unfair trade practice, that somehow that's going to reduce investor confidence. I don't follow that reasoning at all, Mr. Chairman. One might be able to make the argument, in a vague sense, if last year we hadn't passed legislation to take off rent controls. I would remind members of the committee that rent controls never applied to new buildings in the first place. The main argument for removing them last year was that those landlords who had older accommodation subject to rent controls would then be able to get a higher return on their investment so presumably they could expand and build additional rental accommodation. But now in addition to removing rent controls, we're saying we're not going to have security of tenure in any meaningful way.

Mr. Chairman, I look at this legislation and see that eviction with cause has now been set out on the basis of 14 days. In other words, if a tenant has not paid the rent, which is certainly a just cause for eviction, we can now get rid of that tenant in only 14 days. While no one is arguing that non-payment of

rent is the sort of thing that should allow tenants to continue, let me paint a picture that will happen from time to time. Let's take the case of an older person living in an apartment dwelling who may have differences with the landlord; the landlord has decided that individual should be evicted. But under the terms of this legislation, the landlord is going to have to wait three months for arbitrary eviction. Perhaps he just doesn't like the individual; he's going to have to wait three months to turf the tenant out the door. But under the provision of eviction with cause, suppose a mail strike comes along and that senior citizen doesn't get the pension cheque and isn't able to pay the rent for three weeks. Or suppose the senior citizen is waiting for some kind of remuneration from the government of Alberta — and we all know how long it sometimes takes this province to pay some of the obligations they have encumbered. Suppose it's 16 or 17 days. Because the senior citizen has not paid the rent, perhaps through no fault of that individual — as I say, it could be a mail strike and the old age pension cheque hasn't come through — after 14 days he has a legitimate reason to undertake eviction.

In addition, Mr. Chairman, as I look over the legislation I see that we have double standards between the landlord and tenant regarding the whole question of looking after the apartment and reasonable upkeep and repair. No one seriously is going to suggest that landlords should have to tolerate tenants who are not looking after their apartments in a reasonable way. As a matter of fact, I point that out as one of the provisions for legitimate eviction in the bill I presented to the Legislature.

Mr. Chairman, Recommendation No. 7 of the Institute of Law Research and Reform really dealt with two important things. The first was that if the tenant is not looking after the apartment, that's reasonable reason for eviction. But the other thing that Recommendation No. 7 says, on page 27 of the institute report, is that if the tenant has the obligation for reasonable action within the premises, by the same token the landlord has the obligation for reasonable upkeep and repair. But we haven't put that in the act; we've taken one part of the recommendation, as it relates to the responsibility of the tenant, and we have not inserted in the legislation the responsibility of the landlord.

With great respect, I say to the minister: in reading through the clauses of Bill 34, I do not believe that we have a very even-handed piece of legislation. What we have is legislation that sets out legitimate rights for the landlord — and no one argues landlords don't have legitimate rights — but does not provide the kind of protection the tenant should be able to expect in a society where we have a changing approach to habitation. As a matter of fact 20 years ago, seven out of 10 people could afford to buy their own home. So, while numbers shouldn't determine the rights of tenants, the question was at least less of a social factor than it is today, when only three out of 10 people, using the government's own statistics, will be able to afford their own home. With the majority of Albertans in the years ahead likely to be tenants, with our decision to remove rent controls, it seems to me we have a responsibility to insert in legislation reasonable standards of protection for the tenant.

The only argument I can see presented against this approach is a suggestion that somehow that will destroy investor confidence. Mr. Minister, with great respect, I'm saying to you that I do not believe the landlords of this province are so narrow that they have to have this kind of power before they make an investment decision, especially since we have moved in the direction of rent decontrol. I say that reasonable protection to the tenant is the other part of the *quid pro quo* which this government began when you, sir, introduced the rent decontrol legislation a year ago. It seems to me with this kind of legislation being so weak on the question of tenant rights, we're not keeping our part of the bargain.

MR. MUSGREAVE: Mr. Chairman, I'd like to address a few remarks to the Chair in this regard. I'd like to speak as a small landlord. I know that's probably a derogatory term, almost as bad as a developer, a lawyer . . .

MR. GOGO: A slum landlord?

MR. MUSGREAVE: No. My colleague from Lethbridge West suggests slum landlords. I would hope I'm not; I never have been and never intend to be.

Mr. Chairman, one of the concerns I have with this legislation is that we've talked and listened to the Institute of Law Research and Reform, to the committee chaired by the hon. Member for Calgary Buffalo, to the tenants' groups, and as far as I can determine we haven't had very long discussions with landlords, landlord associations, or the industry providing the accommodation. I could be wrong on this point, but I do hope that in the future we listen to them a little more carefully.

This whole business of tenants' rights is an amazing thing. My brother-in-law and I have had a little duplex for several years. I have a tenant who's been there for eight years. We don't have a lease, just a handshake. That's all.

Mr. Chairman, I'm trying to point out here that a tenant is a valuable asset, and no landlord in his right mind is going to throw him out. No one. To work ourselves up into a lather over protecting tenants' rights I find most incomprehensible. The hon. Member for Spirit River-Fairview said that we're making the tenant do the repairs and keep the place clean but not the landlord. What landlord in his right mind is going to let his property deteriorate? It's absolute nonsense. In the city of Calgary, you're compelled by the minimum maintenance by-law. You have to have that place safe, warm, and it has to be looked after.

I'm not denying that there are slum conditions in the city — I would question "slum". There are poor living accommodations in the city of Calgary. The rents are very low, and there are no damage deposits. The tenant knows what he's getting into. He goes there; it's a run-down property; he's paying $100 a month rent. He recognizes this. He says to the landlord, I'm willing to take it; I don't want to do anything to it, you don't have to do anything, just as long as I have a place to roll out my sleeping bag or whatever. Let's not kid ourselves. These situations do exist, but it's a two-way street.

The other point the hon. Member for Spirit River-Fairview — and I really get amused at this one. Here's this harsh landlord and this dear little old lady; her pension cheque doesn't come, and you're going to run down the hall and throw her out. What abso-

lute rubbish! First of all, little old ladies are the best tenants you can get. They're quiet, don't wreck the property, and they pay the rent on time. If they don't have the rent or the cheque didn't come, they come and tell you right now: I'm sorry, something has happened, I'm not going to have the money; is it all right if I wait a week, a few days, or whatever. No problem. The ones we have trouble with are the young bucks driving the sports cars, giving NSF cheques. These are the ones we have to refer to our hon. legal friends to get out of our properties, not the little old ladies.

Likewise, another myth: we have spent hundreds of millions of dollars making accommodation available for the young people in our province, and we have the gall to say that in the not too distant future, seven out of 10 aren't going to be able to afford homes. What are we going to do with our stock? Are we going to eliminate all the housing? Is the construction industry going to be stop working? I never heard such nonsense.

Finally, Mr. Chairman, one area in the bill concerns me. I want to bring this to the attention — I would suggest that if there was more consultation with landlords, we'd appreciate some of the problems. I know some of my rural friends don't appreciate the problems we have. They say, my God, why should we be getting into the nitty gritty of your business? I'll just give you an example. Section 20 says that anything can be installed and removed without damage to the premises. Now I ask you, how can you put anything on a door without destroying something? You're going to destroy the paint or the door frame; you're going to do something to it. Obviously this must have been written by a lawyer who's never in his life held a screwdriver in his hand.

MR. GHITTER: On a point of order, Mr. Chairman. It would be all right for my client to make such inane remarks, but lawyers aren't trained in screwdrivers. We're trained in knowledge and perspicacity.
[laughter]

MR. MUSGREAVE: It's a good point, Mr. Chairman.

I'd like to point out that a wooden stick in a sliding window can be a lock; metal screws in window screens can be locks; wooden sticks in doors can be locks. I would hope the minister would look at this. I agree a tenant should have the right to have a lock on the inside that he can use. These are usually chains or dead bolts. I agree they should be allowed to be installed. But I would suggest that if the tenant asks for them, the landlord would be compelled to install them and they remain with the property. Otherwise you have tenants putting on a variety of these locks and devices and taking them off. First thing you know you've got a $150 metal door frame that's ruined, and you have to replace it. That's one area in the bill that I think obviously the people have not consulted with those in the industry, and I think it would be an area that could be looked at.

But I think the bill is a reasonable approach to a difficult political problem. I'm glad we have not done what our hon. Member for Spirit River-Fairview is so proud to say they've done in Ontario; that is, extend the rent control regulations. The simple reason is that they've got a minority government. Politicians, being human beings, want to be re-elected. It's as simple as that. The city of New York has some of the worst housing in the United States, and they also have rent control. Two years ago, I was in London, England, and saw some of 45,000 units that had been abandoned. In England, they have the tightest rent control in the world. You can see what happens if you continue along that path. Eventually people just walk away from the property. Why not? What can you do if your rents are controlled? You can't fix it; you can't do anything with it, so you leave it.

I would suggest it's a reasonable act. It's a good start. And I'm very pleased we have rent decontrol, because we'll get back to where we were before. I can remember five years ago when you offered a year lease to a person you said, the last two months are free, no damage deposit, and we'll even pay your moving expenses. I ask you, what could be fairer to the tenant than that? And how has that come about? Just by building lots of accommodation for the people.

Thank you, Mr. Chairman.

MR. YOUNG: Mr. Chairman, I'd like to offer a few observations on this bill this afternoon. First of all I'd like to suggest to the hon. Member for Calgary McKnight that he just has a handshake. But once we pass this bill he has something more than a handshake; he has a contract. This bill, in fact, is the provisions that we as a Legislature in our — "profundity", hon. Member for Calgary-Buffalo? — are determining will be the minimal content of a lease between a landlord and a tenant. We are establishing here certain conditions that are going to be in that lease. Whether the tenant or the landlord want it is beside the point. We're going to put them in; we know best. All right. So we depart from the point we know best. What do we know best about?

The way I look at a lease, it's a two-part deal. One part of it is a straight business deal between two individuals, a company and an individual, or whatever. The deal is that for a certain amount of money the tenant acquires the enjoyment and use of a certain area. Fair enough.

The second facet, and the one that makes it very, very difficult for us to deal with and forces it to our attention, is that the very nature of the ingredient we're talking about — housing — has some social complications, obligations, and connections which mean that we get emotionally involved in it. There are emotional relationships between the landlord and the tenant in many, many instances. The exception the hon. Member for Spirit River-Fairview wants to point out to us, where there can be abuse, is precisely that area where there are emotional relationships, where people are not rational, not realistic, not fair, if you will, not thinking straight. They have some kind of mental blockage about some development in the relationship. We are then called upon to legislate equity in that circumstance.

Now I don't know. If you think about it, how are you going to legislate equity as seen by the participants when they're not being very rational? I don't think you can really legislate equity in that respect for them at that point in time. So we do the best we can.

So what have we done here? We have a bill that says there is security of tenure to the degree that any tenant who has a long-term lease of a minimum of a year has notice of at least 90 days. All right. What do we want security of tenure to achieve for us?

What's really important if you're a tenant? What's really important if you're a landlord? What's really important if you're a tenant, I submit, is no different than if you're a householder. If in your employment you are required to move from one city to another, one part of the city to another, you have to make a decision. Most likely you have to make that move in less than 90 days. So I submit to you that we have a very reasonable amount of time here, because what we want to provide, to assure, to be fair, is a length of time that provides an opportunity for financial planning on the part of the tenant and an opportunity for the tenant to do a market search — which is reasonable — to find an alternative product, an alternative place to live. I can't see anybody having the excuse that 90 days isn't long enough.

It seems to me that in these circumstances, Mr. Chairman, we're talking about the very unusual conditions. As the hon. Member for Calgary McKnight said, and as the hon. Member for Spirit River-Fairview completely misses — maybe he chooses to miss; I'm not sure — it is to the advantage of both the landlord and the tenant to have a good and continuing relationship. The landlord loses money on his property if he doesn't have a tenant. The tenant loses money every time he has to move; at least it costs him every time he has to move. So they have a mutual interest in maintaining a satisfactory and fair relationship. Listening to the hon. Member for Spirit River-Fairview, I thought he was suggesting that that was not the case; that in fact they are more likely to have divergent interests, that the nature of society is that they must have divergent interests. I think that's not the case. I think their interests do converge, and that what makes for a good tenant also makes for a prosperous landlord.

I'd like to deal with another aspect of security of tenure. On page 136 of the report on Residential Tenancies the institute dealt with protection of the tenant and what was necessary to provide for security of tenure, and suggested that security of tenure is better provided for if there's rent control. I suggest to you that that argument presupposed a shortage of rental accommodation. The hon. Member for Spirit River-Fairview says a *quid pro quo* is involved here. I don't agree with him. He may have made that kind of statement in his campaign speeches, but I surely never did, nor did I ever think that when we were debating rent controls in this House. But I say to him that what is involved here, and what we are doing, is that we have put in place policies which have brought about a supply of rental accommodation. And as long as this government and this Legislature sees to it, within its capacity, that the policies it adopts produce building sufficient to create a supply of rental accommodation, then we don't need to worry about limits on rents and rent controls. That is what we should seek to do. In my opinion this bill does that very well.

Mr. Chairman, I'd like to deal with the case of the little old widower, if I may. Since we have heard about the little old widow, let's deal with the little old widower. Let me give you an illustration of what happened to me this past year. I had this gentleman call me. He's in his 70s, he's very nearly blind, he's living alone, and he has a limited income. So he rented two rooms in his house. Everything went fine for six weeks. Then he had a party going on at 3 a.m. So he called the police. The police came and said, well, there really isn't anything we can do, because the noise isn't so loud that it's disturbing the neighbors. There's no charge we can lay unless you're prepared to lay something, and we don't know what it is. So they went away.

He called me the next morning and poured out his troubles to me. I said, well, I'm sorry, but I don't really think there's anything you can do except serve notice that the party has to leave.

He called the police twice more. Finally the police wouldn't come. They said, look, there's nothing but a party going on; we've been there before. His son came. The man was really frustrated, exacerbated, and exercised about this situation, probably more than I would have been. But when I reach 70 and I'm half blind, maybe I'll react the same way to a loud noise going on in my house.

That's the kind of problem we have. If I'm 70 and in those conditions and have a tenant in my property who is abusing my lifestyle and my emotional equilibrium, I think it's perfectly reasonable that I should have the ability to remove that tenant on reasonable notice. This bill gets nearer to that than our existing legislation. I think that's very fair. I think it's fair to the tenant as well. The tenants know what kind of conditions they are moving into. If they don't want to live in those conditions, they shouldn't move there in the first instance.

Mr. Chairman, I have mentioned security of tenure, which I think is the big issue in this whole debate. I think this bill goes a long way toward solving what I regard as intervention in a business deal, and deals with an, at times, acute social concern.

Mr. Chairman, I recommend the adoption of this bill to the Assembly.

MR. JAMISON: Mr. Chairman, I'd just like to say a few words on this bill. At the outset I'd like to say that there is so much legal jargon in most bills I read in this Legislature that you have to be a lawyer to understand them. But over the weekend the hon. Member for Spirit River-Fairview said that we should have headed this act the landlord's act. I think he spilled the beans today when he said he read through this bill — and, as I said at the outset, it is a pretty simple bill to understand. But maybe he needs to read it twice, so he can understand it.

Mr. Chairman, this is intended largely to adjudicate disputes between possibly incompetent landlords, and tenants who, for one reason or another, are incorrigible. I really don't know of any landlord who would evict a tenant who pays his rent when it's due, shows some respect for the property he rents, and respects the rights of other tenants living in that apartment block. I think that's really the key to this whole bill.

Mr. Chairman, I'd like to make just one remark to the minister. I have some second thoughts on this 90-day requirement. It's usually the case that the landlord meets his new tenant once, when he advertises his apartment for rent. With this 90 days, I think there is a great possibility that young singles may have a tough time finding suitable accommodation. I'm not running down young, single people; I'm saying that the landlord has a possibility of losing good tenants because of a poor tenant — it might fall in the category of the young, single people. I think this 90

days may have that effect. I'd really like to have the minister take a look at that again. Whether that is security of tenure or not, I think this security of tenure may go against young people.

So, Mr. Speaker, having talked this over with many renters and with people who own apartment blocks, from the standpoint of both the tenant and the landlord, I recommend that this bill will do us for a number of years without having to have too many amendments.

Thank you.

MR. TAYLOR: Mr. Chairman, I would like to say one or two words arising from the remarks made by the hon. minister in closing the debate on second reading.

I'm not going to reiterate the arguments I've made in connection with deposits, cleaning up, and so on, except to refer to the point the hon. minister made. I understood the minister to say that these things are okay if they're included in a contract. If that is so, I have some second thoughts. I don't think it's fair to include some items in a contract which, if not contrary to the wording of our legislation, are contrary to its spirit. For instance, I've always understood deposits to be held for damages that may be done to the apartment or house at the time of the tenancy. The man leaves and he's destroyed the wash-sink or his children have put holes in the walls and that type of thing, which was unnecessary and should properly be paid for. That's a proper charge on deposits.

But when a person is looking for an apartment, in many cases it's not easy to find the type of apartment you want, even though there are now some vacancies. You get pretty frustrated when you go from place to place trying to find an apartment, particularly if old people, a baby, or children are involved. Not all landlords like that many young couples who have a baby or a couple of little youngsters who may disturb the other tenants. Some don't like those who have their aged mother or father along with them. So they put a lot of extra things in their contracts. I can understand the situation when you get so frustrated. Finally you're ready to sign almost anything if you can get a place to put your loved ones in. That is the part where some of the arguments that I hear fall down.

Several years ago I was part of a team negotiating on behalf of the teachers of the Drumheller area. The chairman of our board was a middle-aged teacher who had taught many years. In working out our program to present to the school board, he said to us: will every member of this negotiating team be prepared to put himself in the other fellow's shoes; in other words, the school trustee's position, or in the position of those who are going to pay the bill? If you'll do that, he said, we shouldn't have any difficulty in our negotiations. I thought those were really words of wisdom. In the negotiations that followed, in thinking it out, we teachers were asking for higher pay and better working conditions, and when we put ourselves in the position of the trustee or some of the people living on a standard far below what the teachers were able to live on with the wages they were getting at that time without a raise, we found that the bargaining went very excellently; so much to the point that the school trustees gave more than the teachers had really asked, and there was happiness on all sides.

In this case of landlords and tenants, I think we have to be in about the same position. If we put ourselves in the position of the landlord, who has to invest several thousands of dollars in an apartment or an apartment house, I have to ask myself: would I be prepared to do that, when the return from that money is not certain at all? Perhaps I can get a sure return by investing in Canada bonds. If we're going to expect people to invest in this type of hazardous investment, certainly the return has to be more than you can get from simply investing in Canada bonds and sitting down and waiting for the coupons to come and tearing them off and returning them. I think we have to be realistic in that regard, because the landlord should expect to make a reasonable profit on his investment, and certainly more than he could get from the type of investment where all you do is sit down, wait for the months to roll by, and cut off the coupons and cash them.

On the other hand, putting ourselves in the position of a tenant, we have to realize that this man too has invested money. We don't own the apartment. We're renting it. We're paying for the use of that apartment or house for a reasonable period of time for which we're paying rent. We should expect to leave that apartment in the same condition we found it. If we destroy something, we should expect to pay for it. But by the same token, if a major repair is required, over which the tenant had no control, then surely the tenant should not be expected to pay for something that's going to appreciate the value of that particular house or apartment.

I think that type of legislation would be acceptable to almost any reasonable tenant and any reasonable landlord. Surely the tenant should not be expected to provide repairs that are going to appreciate the value of that apartment or house. Some landlords — maybe they're very, very few, but there are some who do it — insist that the tenant do this, sometimes in a contract that the tenant was very happy to sign just to get a place to get his family under cover. That's the part I'm worried about. I don't know whether the lady I spoke about the other day — the waitress who had $137 of her $250 taken. She said that after she had scrubbed the apartment on her hands and knees and made it spotlessly clean, the landlord said we're going to take $137 of your deposit because we're going to hire somebody to clean up your apartment.

This bill says, kept "reasonably clean". In my view a contract should not permit that type of thing, because it's contrary to the very spirit of this legislation. I hope I misunderstood the minister when I understood him to say that almost anything could be put in a contract and, if it's signed by both parties, it's okay. I don't think that is okay. I don't want to take from people the right to sign a contract. And I don't want governments to start deciding whether or not I should keep a contract I sign. But I think there should be certain absolutes within in a bill like this that say the deposit may be used for such, and such, and such. Surely a contract shouldn't be permitted to take advantage of this deposit. If the damage is done, fine.

I gave the illustration where the man had to sign a contract. He was sick. He had to go to a hospital. His wife and her aged father needed a place to get in out of the cold. And the other place, where he had been terminated, was due to very definite reasons

that anybody would agree to. So he signed the contract saying that if he didn't stay the whole year they could take his deposit. Surely the deposit was never intended for that purpose. That's the only argument I'm making. Surely we should not let contracts take away things that were never intended, or to use the deposit for purposes for which it was never intended. If we do that, Mr. Chairman, I think we can create a far better spirit between landlords and tenants. In many cases today it's an excellent spirit.

But I do urge the minister, whether at this session or the next, that we should have such items as the deposit very clearly set out which cannot be changed because a landlord takes advantage of a tenant who must have a place to sleep, to get out of the cold, in order to claim that deposit for something for which it was never intended.

I'd like the hon. minister to speak on only one other point. Periodically I come across people who are fearful lest they are going to be ordered out of their homes in the middle of winter. For many, many years I believe there was an unwritten law in the province — or understood by the rank and file of people — to the effect that you could not be put out of your rented accommodation when snow was on the ground or during the winter months. I think there should be some type of protection there. It would have to be an awfully hard-hearted landlord to do it. But there are times when the landlord and tenant have such a personality clash that neither talks sense nor acts within reason. I don't think people should be shoved out of their rented accommodation in bitterly cold weather or in the real part of winter.

MR. DIACHUK: Mr. Chairman, I'd like the minister to consider two areas over the next year after this legislation is in force. The possibility of excluding one-family dwellings with one additional rented unit in them — I listened to the Member for Edmonton Jasper Place about the widower, and I can see that these kinds of situations should not fall under this type of legislation.

The other one is under the notice of objection the landlord might serve. Would the department consider having a form the tenant can have to file the appeal against a notice from the landlord?

[Title and preamble agreed to]

MR. HARLE: Mr. Chairman, I move that Bill No. 34, The Landlord and Tenant Act, 1978, be reported.

[Motion carried]

Bill 77
The Hospital Visitors Committee Amendment Act, 1978

MR. CHAIRMAN: Are there any comments, questions, or amendments to be offered with respect to any sections of this bill?

[Title and preamble agreed to]

MR. MINIELY: Mr. Chairman, I move Bill 77, The Hospital Visitors Committee Amendment Act, 1978, be reported.

[Motion carried]

DR. HORNER: Mr. Chairman, I move the committee rise, report progress, and ask leave to sit again.

[Motion carried]

[Mr. Speaker in the Chair]

DR. McCRIMMON: Mr. Speaker, the Committee of the Whole Assembly has had under consideration the following bills and reports the same: bills 34 and 77.

Mr. Speaker, the Committee of the Whole Assembly has had under consideration the following bills and reports the same with some amendments: bills 32, 33, 64, and 13.

MR. SPEAKER: Having heard the report, do you all agree?

HON. MEMBERS: Agreed.

[At 5:35 p.m., on motion, the House adjourned to Friday at 10 a.m.]