

LEGISLATIVE ASSEMBLY OF ALBERTA

Title: **Thursday, May 23, 1985 2:30 p.m.**

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

PRAYERS

[Mr. Speaker in the Chair]

head: **INTRODUCTION OF BILLS**

Bill 74**Hazardous Chemicals Amendment Act, 1985**

MR. BRADLEY: Mr. Speaker, I beg leave to introduce a Bill, being the Hazardous Chemicals Amendment Act, 1985.

The purpose of this Bill is to provide for the reporting to the director of pollution control of spills or unauthorized releases of hazardous chemicals or wastes into the environment.

[Leave granted; Bill 74 read a first time]

head: **INTRODUCTION OF SPECIAL GUESTS**

MR. R. SPEAKER: Mr. Speaker, I'm very pleased today to introduce a group of outstanding young Albertans to you and Members of the Legislative Assembly. I believe one of the very important elements of human development of our young people is the desire and opportunity to become involved in what we sometimes call the political process. Introducing this group of 43 young people, students from across Alberta who are involved in the Forum for Young Albertans, is certainly a great pleasure. They are spending this week in Edmonton, studying the political process at the provincial, federal, and municipal levels.

I'm honoured to be a member of the board of trustees of the forum and have been honoured to spend some time with these young people. The Forum for Young Albertans was incorporated as a society in 1978, and this marks the seventh year of the program. These young people are accompanied by their capable and qualified counsellors, led by the forum's executive director, Linda Ciurysek. The counsellors are Greg McNally, Cameron Laux, Brian Tittlemore, and Lorraine Turk. I take great pleasure in asking them to stand and be recognized by the Legislature at this time.

MR. COOK: Mr. Speaker, I'd like to ask for permission to introduce to you, and through you to other members of the House, 85 students from the St. Cecilia junior high school in the Edmonton Glengarry constituency. This school has had a tremendous reputation in athletics and academics over the years. Talking to the principal at O'Leary high school, these students perform very well. I'd like to ask them to rise now and receive the very warm welcome of the House. They are in both the public and members' galleries.

MR. PAPROSKI: Mr. Speaker, on behalf of the Member for Drumheller, I'm pleased to introduce a group of 10

grade 9 students attending Rockyford school in the constituency of Drumheller. They are seated in the public gallery and are accompanied by their teachers, Mr. Robert Moggey and Mrs. Georgia Lawn. I'd ask them to please rise now and receive the warm welcome of the Assembly.

head: **ORAL QUESTION PERIOD**

Calgary Centre for Performing Arts

MR. GURNETT: Mr. Speaker, my first question is for the Minister of Culture. I understand that the minister has been contacted on a number of occasions by the Calgary Centre for Performing Arts executive on the matter of provincial funding for the operation of that centre. My question to the minister is whether she can make a commitment to financing the centre's operating deficit on a cost-shared basis with the city of Calgary, as has been suggested, so the centre will, in fact, be able to open on schedule.

MRS. LeMESSURIER: Mr. Speaker, we have had correspondence of that nature and are addressing that issue. An answer will be coming up fairly shortly on that statement.

MR. GURNETT: A supplementary question to the minister. Obviously, there's a great deal of concern when the centre is scheduled to open. I wonder whether the minister can indicate within what kind of time frame the centre and the city of Calgary could expect an answer.

MRS. LeMESSURIER: Mr. Speaker, the centre is going to open September 14. The board will have information in plenty of time prior to the opening.

At this time, Mr. Speaker, I would like to commend all the volunteers who have been behind raising dollars for operating the centre. I know we in Alberta will be very proud of that building when it's finished and opened.

MR. GURNETT: A supplementary question, Mr. Speaker. When the decision to assist the centre is taken, can the minister indicate whether it would be looked at on a year-by-year basis or whether there would be a long-term commitment to the centre?

MRS. LeMESSURIER: Mr. Speaker, that is something we'll be addressing when we make the decision on funding.

MR. GURNETT: A supplementary question. Does the minister have any studies or information about the job creation possibilities, the new permanent jobs that will be created in the city of Calgary by the centre's being in operation?

MRS. LeMESSURIER: Mr. Speaker, that aspect of it will be the users. The groups themselves will hire some permanent staff, and the Calgary Centre for Performing Arts board will have some staff on hand. At this time I'm not aware and not able to say exactly what number of staff will be hired to run the Calgary centre.

MR. GURNETT: Mr. Speaker, a supplementary question. Does the minister have any information about the alternatives being looked at as far as the operating deficit in the event Alberta Culture does not provide the assistance that's required? What alternatives are the city of Calgary or the centre considering to make up the operating deficit?

MRS. LeMESSURIER: Mr. Speaker, I'd just like to assure the House that we have put a great number of capital dollars into this facility. I don't believe that our government would not follow up and make sure the centre operates in a way that we will all be proud of in Alberta. The new community recreation/cultural program could be looked at for some of the user groups. When the facility opens in September, I think we'll all be extremely proud of that centre.

MR. GURNETT: A supplementary question, Mr. Speaker. Does the minister have any indication whether or not there's been consideration of the possibility of a casino in connection with the centre to provide operating funds for it?

MRS. LeMESSURIER: Mr. Speaker, I know there has been representation made to the Calgary centre board to run a casino. I have not had a request of that nature from the board.

MR. GURNETT: A supplementary question, Mr. Speaker. A number of performing companies will be based in the centre when it's in operation. Does the minister have any review or information about whether or not the various companies that would be based in the centre will need additional funding assistance to be based there as opposed to the facilities where they're now located?

MRS. LeMESSURIER: Mr. Speaker, I believe that when the organizations undertook to go into the centre, they understood that there would be an additional cost. The agreement between the groups that are using the centre and the Calgary centre board is between those two user groups. It is not up to the government to say what the rental will be for those facilities, and I know that the discussions are being worked out at this time on the use of those facilities.

Economic Strategy

MR. GURNETT: Mr. Speaker, I'd like to direct my second question to the Minister of Economic Development. I have a proposal from an Edmonton aircraft manufacturing firm regarding the establishment of a small plant in the city here which would produce a two-seater ultralight aircraft. The company's name is Alberta Air RV Limited. The proposal is a request for provincial funding. I believe it has been presented to the minister's department. My question is whether the minister can advise what obstacles there are to increasing our diversification in this province in the manufacturing area by assisting with the start-up of this plant as they've requested.

MR. PLANCHE: Mr. Speaker, I have not seen the proposal.

MR. GURNETT: Mr. Speaker, a supplementary question. The proposal would call for a grant of some \$385,000 in connection with operating, and the proposal indicates that the plant could employ some 40 to 50 people. I'm surprised that a possibility like that, that has been presented to the department, as I understand, hasn't been seen by the minister. I'm wondering if the minister could indicate what the criteria are for deciding what manufacturing will receive provincial support and what won't, when a proposal like this comes before them.

MR. PLANCHE: Mr. Speaker, we get a lot of proposals to set up facilities in Alberta that require grant money.

Traditionally we haven't been granters of funds for economic activity.

It reminds me of my very early business experience. One of my German principals said that this man came in who had a lot of experience, and we had a lot of money; five years later we had a lot of experience, and he had a lot of money.

MR. GURNETT: A supplementary question, Mr. Speaker. There certainly are precedents in this province for providing grants, however. Just for one example, I remind the minister of General Systems Research and the grant for laser cutting equipment. My question to the minister is: what finance options other than a grant is the minister's department willing to consider for a project like this that would create jobs, especially in view of the fact that this particular proposal indicates they're considering establishing their plant in Manitoba, where they see that the climate might be more supportive of manufacturing and job creation ...

MR. SPEAKER: Could we get to the question. We're having some very, very long preambles here, and sometimes I have a little difficulty waiting until the end of the preamble to find out what the question is going to be.

MR. PLANCHE: Mr. Speaker, just a couple of comments. First of all, Manitoba would not necessarily set a pattern for what Alberta might do in economic development. Secondly, the member's research is deficient. The laser was not a grant; it was creative financing. We expect to recover all the money out of the sales of the product.

MR. GURNETT: Mr. Speaker, my supplementary question, though, is: what are the options for a company that has a solid proposal for job creation and diversification in the province, if grants are not a possibility?

MR. PLANCHE: Mr. Speaker, the criterion generally is that the activity would have a natural advantage for being here. It wouldn't just become a part of Alberta's activity on the basis of a grant. So in that I haven't seen that specific proposal yet, I can't comment. We have done a variety of creative financing: some are extended term, some are bank guarantees, some are preferred shares, some are deferred recovery of royalty on sale of product, and so on. We're happy to examine each one on merit. When that comes to my attention, I'll do that.

MR. GURNETT: A supplementary question then, Mr. Speaker, to the minister. With regard to the need to encourage these things and have that diversification in the province, I notice that recently one of Alberta's older companies, Burns, also announced a move to Manitoba. My question to the minister, then, is ...

MR. SPEAKER: Might I intervene just briefly. I suppose it's natural to assume that there might be a certain latitude with regard to the preambles to certain questions, but when the same preamble or the substance of it is repeated for three or four questions, it begins to get a little wearing and, I would suggest, goes beyond the reasonable limits of the question period.

MR. GURNETT: On a point of order, Mr. Speaker, in view of the minister's not having all the information, I was just trying to be sure that he was able to respond adequately.

My question, though, to the minister is whether he's had any communication with his counterpart in Manitoba, or perhaps with Burns Meats also, to assess what economic development possibilities are in place there that are so attractive that these firms are considering these kinds of things and whether or not there are things we could adopt here that would have the same positive effect.

MR. PLANCHE: Mr. Speaker, the Burns foods presence is very much in evidence in Alberta. It is true that a packing plant is closed, but the federal government has an IRDP program with tier 1, 2, 3, 4 funding that's based on some mysterious criteria for a social disadvantage or whatever, and Alberta is not other than in level 1, so we're not able to grant for siting. We see a rationalization going on in the meat packing industry. There isn't yet anything in place in Manitoba for Burns, to my knowledge, so time will tell whether it was the right decision or not.

AHMC Mortgage Foreclosures

MR. R. SPEAKER: Mr. Speaker, my question is to the Minister of Housing. We have in this Legislature the Provincial Treasurer indicating to us that the economy is on the upturn. At the same time, statistics from the minister's department comparing April '85 to April '84 indicate we've had a significant increase in foreclosures on family homes, 900 in April '85 compared to 613 in 1984. Could the minister reconcile the differences in those two trends, and what actions has the minister contemplated with regard to those two opposing graphic lines?

MR. SHABEN: Mr. Speaker, the nature of the foreclosure process is one that usually involves quite a number of months. Often the foreclosure process from the original statement of claim until final order runs 12 to 14 months. There is a lag in the process in terms of the circumstances that occur from the time the statement of claim is filed to when the final order occurs. One of the statistics the hon. member didn't note is that statements of claim, as opposed to foreclosures, are down in April, so that indicates that there is a change.

Another factor that's very significant in the overall area of housing and the surplus that exists is the change in vacancy figures in rental housing. From a year previous to the present year there has been nearly a 50 percent drop in vacancy rates, which is tremendous, in my view, in terms of the absorption of the overconstruction that has occurred. In Calgary the CMHC figures indicate that the vacancy rate in rental accommodation is down to 6.9 percent from about 13 percent the previous year. Similarly, in Edmonton it's down from about 12 a year ago to 7.4, which indicates to us that absorption of the overbuilding that occurred during '79 through '81 is occurring.

MR. R. SPEAKER: Mr. Speaker, a supplementary question to the minister. In terms of those homes in which the Alberta Home Mortgage Corporation is involved, is the minister giving any consideration to a workout program between, say, that person that's facing foreclosure and the Alberta Home Mortgage Corporation in terms of working out a better arrangement rather than just foreclosing and moving the family out of their respective home?

MR. SHABEN: Mr. Speaker, we've been doing that since 1982. Available to the homeowner through the corporation

is the opportunity to work out. There have been a variety of workouts where arrears have been added in to the mortgage principal, payments have been reduced, and we've modified the adjustment period for subsidies that are available. Previously subsidies could only be reviewed every two years. We'll review them when the circumstances of the owner change, either by job situation or otherwise. Where a person moves as a result of employment, we will arrange a trade of Alberta Mortgage and Housing Corporation properties from one to another. The difficulty is, that a large majority of the foreclosures and the properties that have been acquired have been acquired as a result of walkaways or sales to dollar dealers, as opposed to inability to meet obligations.

MR. R. SPEAKER: Mr. Speaker, could the minister indicate how many homes have presently been foreclosed on by the department? Earlier this year there was a projection that the accumulated amount in the last three years could be to 6,000. Is that a correct figure at this time, or is that figure less?

MR. SPEAKER: It sounds like a question for the Order Paper. It's a request for statistics.

MR. SHABEN: Mr. Speaker, I may be able to help the hon. member. An estimate of the number of housing units that Alberta Mortgage and Housing Corporation now has is about 2,500. I have earlier advised the House that we are not dumping these houses on the market at reduced prices. We'll sell them only if we're able to receive the original loan amount. As a result of that we are renting the units, and the take-up of the rental has been very good.

MR. R. SPEAKER: Mr. Speaker, a supplementary question. Could the minister indicate whether one of the major causes of foreclosure is the rate of interest or mortgage, or is the cause a loss of jobs by those people who formerly owned the homes? In the statistical information collected by the department, which seems to be the major cause?

MR. SHABEN: Mr. Speaker, I don't believe that either one has been the key contributing factor. In assessing what has happened since the national energy program, the high interest rates, and the downturn in the economy worldwide, there has been a fairly dramatic reduction in the value of house prices. We keep a running tally on the house price index in Alberta from one year to another, going back a number of years. There has been a reduction in house prices for a number of reasons, some of which I've already noted. That has led many citizens who mortgaged their homes with high ratio loans to walk away or sell to dollar dealers, which has in turn caused subsequent events; that is, a further pressure on the existing market and a further occurrence of that sort of thing. So it is almost a spiralling effect. The principal thing is a result of the overall impact of the national energy program, the out-migration of citizens from Alberta, an oversupply of housing, a reduction in the value of everyone's home, whether it's the hon. member's or mine, and all the consequential things that happen when those events occur.

Drug Royalties

MR. LEE: Mr. Speaker, my question is to the Minister of Consumer and Corporate Affairs. It relates to a report referred to now as the Eastman Report, released by the federal government yesterday, that recommends a 10 percent

increase in the royalty paid to the patent holder by Canadian manufacturers of generic drugs. Has the minister had an opportunity to review the content of the report and the potential impact on Alberta consumers?

MRS. OSTERMAN: Mr. Speaker, I have just received the report, but I haven't had an opportunity to study it.

MR. LEE: A supplementary. Can the minister indicate if, in fact, it's the minister's intention to make a submission or response at some future date?

MRS. OSTERMAN: Mr. Speaker, we obviously all have a concern about an impact on possible drug prices. There are two sides to that. Maybe my colleague the Minister of Economic Development would like to speak to that. The federal minister has communicated with me and asked for a meeting, so we certainly will be discussing it with the federal government. My colleague is also involved in that process.

MR. LEE: Mr. Speaker, a supplementary to the Minister of Economic Development. In view of the reference in the Alberta white paper on industrial and science policy for a petrochemical-related pharmaceutical industry in Alberta and the advantageous impact this increase in royalties could have, would it be the intention of the minister to pursue this possible economic opportunity for Alberta?

MR. PLANCHE: Mr. Speaker, over the last several years we've written letters to the federal government asking them to rethink the Patent Act and this particular section of it. My colleague is correct. We do see a potential for pharmaceuticals here, because we have some excellence in petrochemicals and fine chemicals. We have the advantage of world-class research through the Heritage Savings Trust Fund research endowment, and we have 65 or 70 world-class scientists working on activities that would be ancillary to pharmaceuticals, should they develop. So the question really is: does this nation want to pay some controlled increase for drug care and have a continuum of activity from research right through to new product, or do we want to be a nation that simply emulates others and rolls pills?

MR. LEE: A supplementary. In view of the minister's favourable response, is it then possible that we could anticipate an official position or a submission to the federal government indicating the Alberta government's interest in this economic opportunity?

MR. PLANCHE: We have done that, Mr. Speaker, but after all, this is only a report from one man, commissioned by the previous government. It will be interesting to see what consideration the federal government has of this, and of course my colleague the Minister of Consumer and Corporate Affairs will have an avenue open for input from us. We'll watch it with some considerable interest. It's a question of balance. We think the pharmaceutical industry is going to have to stand forward and indicate how they're going to control rampant price increases; on the other hand, we think it's essential, because we're so far from market we need high-value, low-freight, high-brain activity. This is one area that we think has enormous potential, so we will be vigorously pursuing this.

MR. LEE: A supplementary to the minister. Are there any Alberta-based companies that would be in a position to seize

this opportunity, or would we be seeking out industries to bring this development to Alberta?

MR. PLANCHE: Mr. Speaker, I don't recall when this change in the Patent Act was made, but it's all but depleted research and development in pharmaceuticals in the country. I think the only indigenous pharmaceutical company of any consequence is Connaught Labs. Any multinationals left are simply living out whatever commitments they had, but there is nothing brand new or exciting. As a result, we don't have any access to the world marketing network for pharmaceuticals, and we're light-years behind where we need to be if we're going to be aggressive players. We don't even really have a serious position any longer in veterinary pharmaceuticals. So it's going to be a fresh, running start right from the beginning. We think it can be done. We've got some players with the muscle to do it, but we're going to have to hurry in the marketing network. Again, we'll be watching it very carefully.

MR. LEE: A final supplementary, Mr. Speaker. Would it be the intention of the minister to seek input from the Calgary Research and Development Authority or perhaps the Alberta Research Council or the Alberta Chamber as to a potential additional Alberta response to this report?

MR. PLANCHE: Mr. Speaker, we make a practice of consulting all those bodies. The Research Council, of course, gives input to us on a variety of issues all the time. So that is simply an ongoing conversation. I would certainly expect they will react to this commission report, and that will be part of the input. We continually consult with the business community in any event.

Travel Insurance

DR. BUCK: Mr. Speaker, my question is to either the Minister of Tourism and Small Business or the Minister of Consumer and Corporate Affairs. It has to do with what happens about once a year in the travel industry, where the company that has made the arrangements goes bankrupt and the travellers get stranded and can't get back. Is the Minister of Consumer and Corporate Affairs in a position to indicate what discussions have been going on with the travel industry to make sure this doesn't happen to Alberta travellers?

MRS. OSTERMAN: Mr. Speaker, I have had a number of discussions and met with the group when they had their annual meeting last year. They're working very hard on a national basis on a proposal to put an insurance scheme together that would work Canadawide. Unfortunately, they have not had the support of all provinces. We know, and I think the hon. member has raised it before, that there are different opportunities in each province with respect to some type of travel insurance. The industry in Alberta could not come to a conclusion themselves as to what type of insurance they'd like to see. There was some disagreement. But the national plan of action seems to be gaining some support, and I've certainly been supportive of their visitations to other provinces to see if they could get this off the ground.

DR. BUCK: Mr. Speaker, a supplementary to the minister. This has been about five years now, Madam Minister. Can the minister indicate if, in the discussions with the Alberta

travel industry, there's some type of bonding procedure, something that could be put in as an interim measure to make sure that Alberta travellers would not be left stranded?

MRS. OSTERMAN: Mr. Speaker, it's a very difficult situation, I suppose, to impose on those who are the good actors in a particular industry some sort of scheme that would make them pay for those who do not have a good track record. Unfortunately, this has been the case. We have seen, at least in this province, a good many of the tours that were being represented by very reputable travel agents in this province and that had gone broke, and those agents have picked up the cost. So I think it's important to note that with the kind of association there is in Alberta, albeit they don't have any legislative mandate, they have been very good at looking after their customers. One of the things I would say as a consumer is that I would look very carefully to see if those I went to do business with are members of the association, because that association has an excellent track record.

ORDERS OF THE DAY

MR. SPEAKER: Might we revert briefly to Introduction of Special Guests?

HON. MEMBERS: Agreed.

head: INTRODUCTION OF SPECIAL GUESTS (reversion)

MR. ISLEY: Mr. Speaker, it's my pleasure today to introduce to you, and through you to the members of the House, 17 students from grades 8 and 9 at Nelson Heights school in Cold Lake. They are accompanied today by their teacher, Mr. Brian Dropko, parent Mrs. Shirley Stef. and their bus driver, Mr. Jack Florence. They're seated in the members' gallery, and I ask that they stand and receive the welcome of the House.

MR. PENGELLY: Mr. Speaker, it's my pleasure to introduce to you, and through you to the House, 33 students in grade 5 from the Spruce View elementary school. They are accompanied by their teachers, Mrs. Edna Lewis and Mrs. Marguerite Baker; parents Mrs. Faye Schatschneider, Mrs. Anna Stanton, and Mrs. Lyn Brinson; and their bus driver, Mr. George Vanderham. They are seated in the members' gallery, and I would ask them to rise and receive the warm welcome of the House.

DR. BUCK: Mr. Speaker, I would like to introduce to you, and through you to the members of the Assembly, 28 grade 6 students from the Rudolph Hennig school in Fort Saskatchewan. They are accompanied by their teacher, Mrs. Lindy Mair, and parents Mrs. Linda Traverse, Mrs. Barbara Martens, and Mrs. Evelyn Slade. They are seated in the public gallery. I would like them to rise and receive the welcome of the Legislature.

MR. HORSMAN: Mr. Speaker, I move that motions for returns 138, 141, 142, and 145 stand and retain their places on the Order Paper.

[Motion carried]

head: MOTIONS OTHER THAN GOVERNMENT MOTIONS

217. Moved by Mr. Alger:

Be it resolved that the Legislative Assembly urge the government to consider introducing legislation to amend the Municipal Taxation Act so as to provide a more equitable assessment of all rural residential parcels of land.

MR. ALGER: Mr. Speaker, there are probably thousands of examples in history of an attitude that some people have: stick-to-itiveness. In a manner of speaking, I would suppose that's exactly what I'm practising today when I bring to the House for the second time in the 20th Alberta Legislature Motion 217 on the Order Paper. It seems to be extremely 'contravenous' and hard to deal with.

In April 1983 the hon. Member for Drayton Valley introduced Motion 205, a motion similar to today's. Several speakers brought up exceptionally good points. The motion was talked out in the time allotted. In November of that year Motion 205 reached the top of the Order Paper again, and once again surges of brilliance escaped the mouths of several of my colleagues, but once again this important motion on rural taxation was talked out completely. But I won't say the debate was in vain, for I know the Minister of Municipal Affairs and his staff have been working resolutely hard in this session of the Legislature, indeed in many past sessions, to endeavour to bring about some semblance of fairness in the world of municipal taxes.

I take no credit, Mr. Speaker, for exclusiveness in the desire to keep this important issue in front of the House. Many of my colleagues suffer the same chagrin as I in my constituency, when they think back and remember how time after time motions have been brought forward to resolve this seemingly unresolvable question. But as I said earlier, I'm sure in my own mind that if we stick with the problem long enough, we will indeed one day soon come up with a formula for equitable rural assessment and taxation that, hopefully, one and all can live with.

Mr. Speaker, it is my pleasure to introduce Motion 217 this afternoon for this Assembly to

... urge the Government to consider introducing legislation to amend the Municipal Taxation Act so as to provide a more equitable assessment of all rural residential parcels of land.

I think it is high time, Mr. Speaker, that this government undertook the study of this blatantly obvious problem of property inequities in this province. Indeed, that's a rather poor way to phrase that, for they've undertaken this problem for a long time. All I'm trying to do is emphasize the point that we've got to work harder at it. For many years now our outdated system of property assessment has resulted in one group of people in this province carrying a greater portion of the municipal tax burden than another group. Time and again concerns regarding these inequities have been brought to our attention by farm organizations, municipal associations, and others. I believe we cannot ignore this issue any longer.

In my constituency of Highwood, several weeks before the election in November 1982 I attended a ratepayers' meeting where I discovered that our annual taxes were going to be raised considerably, due primarily to our exaggerated school costs at the time, and where I also discovered much to my chagrin that many, many of our ratepayers wouldn't be affected by the raise at all.

Let me describe in her own words, Mr. Speaker, how one of my constituents feels. She says:

The Municipal Taxation Act pertaining to residential property tax in Alberta is as contaminated as the federal Income Tax Act. We continue to condone, by our lack of action, the overwhelming facts of inequity which is worsening each and every year. Indeed, by our failure to act, to change once and for all the discriminatory rules of assessment, we are perpetuating a form of apartheid — not racial segregation but indisputable taxation segregation.

She goes on and on, Mr. Speaker, in a most predominant way to indicate to us that we're not pulling our weight in this government.

The inequality of Alberta's municipal taxation system arises from the fact that all rural residents are not treated fairly. Much of this problem arises as a result of many landowners' claiming farm status as provided for under the Municipal Taxation Act. Today there are a number of rural residential parcels that are classed as agricultural, on which residents pay little or no tax at all. It grieves me to tell you this, but in many cases the municipal district of Foothills No. 31 will declare a property not to be a farm, then the owners appeal the decision to a board here in Edmonton that usually reverses the MD's decision, and another tax inequity is formed. I spoke to this point several days ago, Mr. Speaker, so I won't elaborate any further on that point. By the same token, there are other landowners who do not or perhaps cannot qualify as having a farming operation and are subject to a different and higher level of assessment.

I think the problem of inequities is much more obvious in the areas of the province where property tax is still based on the 1960 assessment manual. My constituency of Highwood, Mr. Speaker, happens to be one of those areas. This means that property classed as farmland is assessed at a maximum value of \$40 an acre, and all buildings on this land are completely exempt from assessment and taxation. For nonfarm land parcels, both buildings and land are subject to a much higher rate of assessment and taxation. What this means is that for those who can manage a farming exemption, their taxes will be considerably lower than those classed as nonfarm land. I think it is also important to note that approximately one-third of the municipal districts and counties in this province are still using these antiquated assessment guidelines.

To give you an idea of the diversity in property taxation, I'll provide all of you with a few examples from my constituency of Highwood. The first one is a parcel of 80 acres. In actuality, it is a horse-training facility. Although classed as a farm with a market value of \$1.2 million, the property taxes in this case are \$397 a year. I wonder how the poor man stands it. In this same area, an acreage of two acres with a market value of \$165,000 and a nonfarming assessment is taxed \$1,572 a year. Another example is a parcel of 160 acres with a residence: market value \$298,500, property taxes \$433 a year. One four-acre lot with a residence, market value \$239,000, is taxed at \$1,499 a year. *Hansard* is full of examples like this that have been described to you over the past several years. I'll not dwell on statistics. I believe we all realize our assessment system is very inequitable. Although these taxes vary, Mr. Speaker, all of these people have the same access to the same services as the balance of the residents in the municipality.

Everybody, regardless of the amount of tax they pay, uses the municipal roads, their children all attend schools and occupy bus seats; however, the amount of taxes some

of these residents pay on their property does not even meet the cost of supporting one school student for one year, not to mention the other municipal services available to them.

Mr. Speaker, my constituency of Highwood is made up of a wide range of taxpayers, such as oilmen, farmers, ranchers, businessmen, and acreage owners. Under this current system of property taxation there is considerable financial strain on some of these taxpayers while not enough on others, and I think it is time this system be altered to allow a more even distribution of the tax burden among these various groups.

I would also like to make it clear that by introducing this motion, I am in no way advocating that the legitimate farmer be made to pay a much higher level of property tax. I think it's important to protect the farmer and his livelihood, and as they are already experiencing a tremendous cost/price squeeze, increasing these people's taxes would only make the situation worse. Indeed, Mr. Speaker, a couple of years ago I'd been to a meeting where everyone, including the farmers, felt it was only fair that all the people should pay taxes on their residences. The only assurance the farmers wanted was that it would not be the beginning of the end, that initiating taxes on farm residences would not result in increased taxes on farmland or farm buildings.

Indeed, am I not protecting the farmer? Am I not doing just that by saying to all of us who live in the country, "Let us all pick up our fair share of the tax burden"? If within the system we could devise a plan where every home contributed, say, \$1000, \$750, or \$500, whatever amount is required by the municipal government to control their budget, the non-tax payers would come up and the higher-tax payer would come down, and legitimate farmers would remain about the same or probably notice and enjoy a reduction in their taxes.

I do believe there is a more equitable way of working out our property tax system so that all landowners in this province pay their fair share of the municipal tax burden. Property taxes in one form or another have been with us since people began living together in communities. Because no society can function without revenues, there have always been assessors or their equivalent in government organizations. As a result, there are really no basic complaints about taxes that have not been expressed already. That does not mean, however, that the system cannot be improved or that we should give up trying to reform it wherever and whenever it is possible to do so.

Mr. Speaker, this august body of men and women in our Legislature can probably be described as the province's best thinkers. In their adjudication and judgment, resolution to this age-old problem should be forthcoming in the next few months.

Once again, Mr. Speaker, I urge this government to seriously consider the system of rural property assessment in this province and to make the necessary changes to the Municipal Taxation Act to ensure a more equitable distribution of rural property taxation. I sincerely urge the passing of this motion. Far more formidable colleagues than I wish to express their opinions on the matter. Therefore, I shall thank you for your attention and give them the time they so richly deserve.

Thank you, Mr. Speaker.

MR. STILES: Mr. Speaker, I'm very pleased today to have the opportunity to speak on this subject. It's one that's been very close to my heart for a number of years, and I very much commend the hon. Member for Highwood for bringing it to the attention of the Assembly and giving us the opportunity again to debate the issue. As he pointed out, there hasn't been any resolution since the introduction last year of the motion from the hon. Member for Drayton Valley. Nothing has changed.

In addressing this issue, I think we should look at some of the concepts involved here. One that is fundamental to the whole idea of taxation is property rights. In that connection, in the context of taxation and property, I think we should just go back a little in history and look at where we came from. Not going back too awfully far but at least as far as the feudal system in the Middle Ages, at that time there was never any concept of individuals owning property. All property was held at the pleasure of the Crown, and accordingly, the individual was viewed as a vassal of the Crown or of the state, and the taxation system that was employed in those years was based on that concept. We've gradually moved from that idea of the land or the property all being held and owned by the Crown and simply held in tenure to the idea of grants of land that occurred in the 1600s and 1700s — more recently, for example, the grant of Charles I to the Hudson's Bay Company of the entire western portion of Canada — to the concept of individual ownership, where the individual owned all the bundle of rights involved in having property from the centre of the earth to the limits of the heavens above. That was the idea of fee simple. The individual, in that concept of fee simple, had total ownership, total control, and the decision-making right over that property.

Another of the concepts is, of course, this matter of taxing power. In the days of the feudal system the Crown taxed on the basis of production. You held land from the Crown, it was the Crown's land, you produced goods from that land, and you paid a share of the goods to the Crown. The taxing power at that time was very similar to the concept of sharecrop renting of land today, where the owner of the land takes a share of the crop. There is very little difference in those two ideas.

In Canada we have a division of powers. The Canadian Constitution, the British North America Act as it was then known, set out in sections 91 and 92 the various powers of the federal and provincial governments. The power to tax directly was an exclusive power of the provinces. The power to tax in the hands of the federal government is to tax all . . . It simply allows the federal government to raise money by any mode or system of taxation. The provinces are only allowed to tax directly. The federal government has the excise tax, the tax on manufactured goods, so that everything manufactured has a tax that's paid to the federal government. They have the concept of income taxes, based on earning capacity. We have a graduated tax system, of course, and I'll say something about that in a few moments in connection with income taxes, which are now coming under some scrutiny.

In terms of the provincial power to tax, however, it's a direct system, which includes a tax on property. Insofar as the property tax, it has been passed on. I guess our municipal governments are to some degree a committee of the provincial government, in a sense. We've passed that power down to the municipal authorities and allow the municipalities to collect their revenues by means of taxing property. The other methods of taxation which exist in some

of the other provinces are forms of direct taxation. Sales taxes in all the other provinces except Alberta, gasoline taxes, taxes on liquor, and those kinds of taxes are all means of taxing directly that the provinces employ.

I'd also like to deal with the philosophy and purpose of taxation. The purpose of taxation is surely to raise a revenue for whichever body of government is imposing the tax. The only reason for having taxes is to raise revenues. That comes back to the principle of association. Individuals associate in towns, cities, counties, or municipalities. In our Western philosophy, this whole idea of the power to tax involves a transfer of power from the individual to the state. In other words, the individuals in a municipality, town, or village collectively transfer to the state a certain number of their powers as individuals. That idea of the transfer of power from the individual to the state to do something is within the concept of a free society in which each individual is considered to be a free man or woman. You couldn't have that philosophy if you held to the idea that the state has all the rights and the individuals in it are only extensions of the state.

In other words, we've come through a fantastically long period of evolution from the day when we were considered vassals of the state to the present time when we consider ourselves to be free individuals. As free individuals, we've transferred the power to tax from our bundle of rights to our governments. We do that to give the government a means of raising revenue to pay for services we render collectively. In other words, we recognize there are some things we can do better together; for example, providing schools, roads, and various municipal services. We recognize we can do those things better if we pool our resources and do them collectively. We transfer the power to tax, to raise those revenues, in order to carry out those objects that we want to carry out as a group.

That sort of philosophy and those concepts based on that philosophy of the freedom of the individual are at odds with this idea, this relatively new concept, of taxing on the basis of ability to pay. As it is now applied, this ability-to-pay idea is in fact a bastardization of the feudal idea of taxation based on production. This whole system of taxation that we now have, based on the value of your residence, has nothing to do with production or productivity. Simply, your ability to pay a tax is based not on what you produce from the thing that's being taxed but on what you've done with it. In other words, you've built a better than ordinary home on the property you own because of your personal beliefs and ideas about the meaning of a good life. You believe that having a home that is well equipped and well furnished and furnished is an indication of how you would like your resources to be utilized, and you build a home with carpeting, wood panelling, a fireplace, and perhaps a Jacuzzi and a few other amenities. The chap down the road from you decides that his idea of the good life is to have a motor home, be able to travel, and spend half the year in places like Phoenix or Hawaii and the other half living in a very modest residence here in Alberta.

Those two people, even though they may have the same kind of productive capability and the same level of resources, are taxed totally differently under our system of taxation for the services they both enjoy equally. It's the manner in which we gauge the individual's ability that is at fault here. We're no longer looking at productivity criteria; we're looking at what he's done with his resources. We're in fact penalizing the person who has put his resources into his home and rewarding the individual who has put his resources into some other expenditure.

The hon. Member for Highwood certainly outlined the discrepancies that come out when you apply a system in this way. In the Olds-Didsbury constituency there are also discrepancies. I wouldn't want to bore members with too many details, but I would like to point out, as the hon. Member for Highwood said, that there are people who pay \$200 or \$300 in taxation while enjoying a very good life and enjoying a lot of production or benefit from their property. And there are people who are living on acreages with two, three, or four acres — and often these acreages would be simply weed patches or totally unproductive land if they hadn't been built on — who build a reasonably decent home. I'm not suggesting a multimillion dollar mansion such as one that exists just south of my constituency, but a reasonably decent home with perhaps \$200,000 invested. I have examples in the Olds-Didsbury constituency of people paying as much as \$3,600 a year in property taxes on a home that is just their place to live. The same house in the city might pay half that much, and the same house on a farm down the road, a quarter or less of that amount. The system is totally inequitable. There is no equity whatever.

I believe it should be a fundamental principle that we gauge what one pays in taxes equally across the board in relation to the services we receive from the municipal government we're paying the tax to. In other words, the taxes should be based on the services rendered and shared equally across the board. The services municipalities render are basically services to people. If there weren't any people, a tiny fraction of the amount of money being spent by municipalities would be spent. If there weren't any people living in an area, we wouldn't need roads, educational facilities, a school bus system, or very many of the services that we provide ourselves through the mechanism of a municipal authority or government.

Yet all the people in a municipality share equally in terms of their opportunity to utilize those services. We all have equal access to the roads and to the services provided. Accordingly, in that context surely we should all pay an equal share. If we were to tax on the basis of equity, it seems to me, as the hon. Member for Highwood pointed out and suggested, that every residence in a given municipality should pay an equal amount of tax, because every family in the municipality has more or less an equal opportunity to utilize the services provided. Taxation should be based on the utilization of services and not on how much money you've invested in your particular dwelling. Obviously, if one farmer has a great deal more land than another, he is using the roads in particular more than his neighbour and should pay accordingly. Here again, we're basing the amount of tax on the utilization of services and not on what he's done with his funds.

The whole idea of taxing on the basis of ability to pay is a Marxist idea. This is from the *Communist Manifesto*, of course: from each according to his ability to each according to his needs. That's the philosophy of Marxism. That's the philosophy upon which both our income tax system in Canada, not a Marxist country — at least not that we admit — and the tax assessment system operate today.

I have a pamphlet from Alberta Municipal Affairs. Unfortunately, the minister isn't here to hear all this. It says:

Assessment allows us to ensure that people pay taxes according to the value of their property *in comparison* with other people's property values.

What a lot of nonsense that is. There is no comparison at all. In any case,

in Alberta, assessment of property is used as a method of seeing that each property owner pays a fair level of tax in relation to what his or her neighbors pay.

That's utter nonsense too. It's just not happening. That may be what should be happening but isn't happening. They go on and talk about farm property and how it's assessed and the changes in the assessment base. They say:

The changes, therefore, ensure owners pay only their fair share in relation to other's contributions.

We don't do that either.

It seems to me that whether you have a fireplace, pink bathroom fixtures, a rug on your floor, or wood panelling on your wall should have absolutely no bearing whatsoever on how much money you pay in taxes. Yet that is exactly the basis upon which we are now paying taxes. We introduced a measure a short time ago in which we are now going to say that everyone who is a farmer has the right to live in a minimum standard of box valued at X number of dollars. I think it's somewhere around \$40,000. If you choose to put your resources into the home to the extent that the value of that house goes over that amount, then we'll penalize you by way of taxation. What is fair about that? Absolutely nothing.

The individual is taxed in terms of his ability to pay through the income tax system to start with. The whole idea of the graduated tax on personal incomes was also introduced by Mr. Marx in the *Communist Manifesto*. The purpose of that method of taxation certainly wasn't just the purpose of raising revenue, which is the only valid purpose for taxation. The purpose of that method of tax was to level everyone in a society down to a given mediocrity. For some reason or another, we have adopted a system of property taxation in this province which does exactly the same thing. We want everyone levelled down to a common mediocrity so we'll all live in mediocre houses and spend a minimum of our resources on maintaining or improving our properties. Otherwise, if we choose not to conform to that standard, we will be penalized by way of the tax system.

That's what we're doing in Alberta today — not based on fairness, not based on equity. In other words, we've adopted a system of taxation with a purpose totally different from the only valid purpose there should be for taxation; that is, to raise revenue to provide services.

I support the hon. Member for Highwood in his motion. I recommend it to the Assembly.

MR. BATIUK: Mr. Speaker, it's a real pleasure to participate in this very important motion from the hon. Member for Highwood. I have previously spoken on this resolution, and there has been concern about this for a good number of years. I think taxation and assessment in this province have been a controversy for many years. I served for 11 years as a municipal district and county councillor, and there always seemed to be a problem.

Originally, there was a provision that whoever had 20 acres of land could consider himself a bona fide farmer. That didn't seem to work too well, so there was an addition that if a person made an income comparable to the old age security on that portion of land, he qualified as a bona fide farmer. This wasn't always the best, because somebody who had just a little parcel of land could raise a pedigreed stallion and sell it for \$5,000, \$10,000, or even more. That

would bring him even more than the old age security, so he could be considered a bona fide farmer.

What really bothers me more than anything is the taxation and assessment of farm homes. There is no getting away that over the previous years people would put a home on an acre or two of land and when the land was assessed, they would probably pay a dollar or two in taxes. Yet they'd demand the services that everybody else was getting. They'd want the school bus, the snowplow continuously, and so forth, and they contributed next to nothing.

When the taxation and assessment of homes came in, I think there was another inequity built in, because anybody who had a home of 1,200 square feet or less was not assessed for taxation if they were a bona fide farmer. Anybody with a home in excess of 1,200 square feet was taxed. Here again, for a couple with two or three children, a home with 1,200 square feet or less could be sufficient. But for somebody who has five, six, or seven children, that home would definitely be too small. So why should that person be penalized because he needed a bigger home? You can't expect a family of seven or eight to live in a 1,200-square-foot home. Not only did this person have other difficulties bringing up his family because of the number, but he also had to pay an additional tax.

I have noticed that even at present some people have a section of land and pay less than \$2,000 in total tax, yet they could have a neighbour on an acreage just across the road, with three acres and a home just like they have, and their tax could be two or three times as much.

In an urban community it is different. Your homes are assessed for the services they get. They have water, natural gas, electricity, sidewalks, curb and gutter, police protection, lights by their homes. Yet on the farm if you want to offer to install your own water system you have to pay \$6,000 or more. Natural gas will cost \$3,000 or more; electricity, another \$5,000. If you want a yard light, it will cost about \$200 per year. Here again, in town your home is taxed but it is taxed for the services you get. On the farm those services are not available or you have to pay dearly for them.

I really feel that everybody should pay a fair share. The only way you accomplish this is if there is a minimum tax. Anybody who is living in the rural area should pay a minimum tax that would provide the costs for gravel, the grader, the snowplow, the school bus, and other services they get, whether the minimum tax would be \$400, \$500, or whatever. If a person has a half section of land, it's expected that he should pay a few dollars more and so forth. This has been debated many times in this Legislature, and I really feel that a different form of assessment and taxation should be put in place. I think the minimum tax could resolve this.

With this, Mr. Speaker, I'd like to thank you.

MR. STEVENS: Mr. Speaker, I'm very pleased to join this debate on Motion 217, which has been so ably put forward by our colleague the Member for Highwood. The motion urges that the Municipal Taxation Act be amended to provide a more equitable assessment to all rural residential parcels of land. His remarks are very timely today. There is a hurt in rural Alberta. There is divisiveness. There are neighbours examining neighbours' assessment records. There are applications made to the court of revision and appeals made all the way up to the provincial assessment board, as the member described earlier in this debate.

The last time I spoke on this subject in the Legislature was five years and one month ago, April 21, 1980. The then Municipal Affairs minister was speaking on Bill 13, The Municipal Taxation Amendment Act, 1980. We who were in this Assembly at that time participated in establishing the most extensive changes in municipal assessment and taxation in rural Alberta in the past 20 years. These changes provided for a sixfold increase in the value assigned to the best farmland, from \$40 per acre to \$240 per acre, provided for the assessment of farm buildings that were used for nonfarming purposes, provided for the assessment of farm homes on a very fair and reasonable basis. But, as members before me indicated, with this blanket exemption equivalent to this three-bedroom average home, which in 1980 had a replacement cost of about \$50,000 or an assessed value of about \$28,000 indexed today to current values, the difficulty is that this exemption applies to each home that qualifies as a farm residence, even if there is more than one home on the parcel.

Another change was that a three-acre site was established as the size of the parcel to be assessed at a percentage of market value with all the balance — seven acres if it was a 10-acre parcel or 27 acres if it was a 30-acre parcel, whatever — assessed at farmland rates.

Lastly, when that Bill was enacted, it provided for the provision of split mill rates. So residential property could have one mill rate, farmland another, and commercial yet another, provided the lowest mill rate was 75 percent of the highest.

Those changes that were debated and finally enacted were to be implemented over a period of time throughout Alberta. Later, in 1983, the Member for Drayton Valley proposed a motion to provide for a minimum tax on all rural residential parcels and farmsteads to cover municipal costs on a more equitable basis. This was along the lines of the contribution to our debate today by the Member for Vegreville.

Where are we in 1985? The Member for Olds-Didsbury mentioned vassals of the state. I'll give the members in the Assembly today one example of a vassal in Banff-Cochrane. In a portion of the area I represent, there stands a two-storey, 3,300-square-foot, four-bedroom cedar home with an attached double-car garage on a 40-acre site. The occupants of that home use the provisions of the legislation. They have this property, valued at \$400,000 in 1984, assessed at \$850 and pay the princely vassal sum of \$100. One man's tax break is another man's tax load.

But friends in the Assembly and those of us here today from urban Alberta, don't rush out to rural Alberta if you want to be an acreage owner or become a farmer. You'll develop and maintain your own water and septic tank systems. You'll buy the equipment to keep your half-mile or one-mile driveway plowed and graded. You'll pay higher rates to install your phones, natural gas, and power. You'll forgo street lighting, let alone sidewalks and curbs. You'll forget about garbage pickup by contract unless you arrange to do that. You'll have to forgo all the other services that municipalities, by their size and scale of operation, can provide. You'll pay for the grader, you'll pray for the grader, and you may see it once in a while. You may see the RCMP or the municipal police or the bylaw enforcement officers if there are any in that municipality. Certainly, you'll become a member of Rural Crime Watch. You'll pay your share for schools, hospitals, foundations for senior citizen accommodation, regional planning, and whatever other service your municipal council provides. This will all

be done under rules that make no sense to you, because your neighbour will pay less or more, depending not on their income or investment but on their activities. It's a wonderful life in rural Alberta.

The Foothills ratepayers association has written to my colleague the MLA for Highwood and to me, as we share the privilege of representing portions of the municipal district of Foothills. The association wrote:

This Act is creating more and more plastic farmers each year, and the real farmer, acreage, and urban ratepayers cannot afford them.

Don't think, colleagues, that this has implications only in rural Alberta. As one taxpayer avoids his or her fair, equitable share, the load must be picked up by others. As one group escapes their responsibility, so do other groups assume the load. As rural Albertans fight their way through this morass of legislation, these inequities, taking advantage of farm exemptions, so do all taxpayers pay for these inequities through general government revenue distortions in the programs that we as a province provide through property tax reduction, school foundation, or other programs which are provided by Alberta taxpayers as a whole for hospitals and roads. The acreage owners and small holders I'm privileged to represent are not battling the farmers I also represent. They are simply pleading for equity and fairness. They are asking for justice for all. Our present system is not the best we can have. There are glaring loopholes that must be closed.

Mr. Speaker, I'd like to suggest three options I have gathered in the various meetings I've been able to attend throughout my constituency and elsewhere in Alberta where this problem is viewed as serious. One is to tax farm residences and, if necessary, reduce farmland taxes to ensure no overall increase in farm tax. This would eliminate the inequity between farm and nonfarm owner. It would certainly resolve the acreage owners' concerns about the plastic farmers, and it would meet the intent of the Alberta Association of Municipal Districts and Counties.

A second option was discussed in 1983 and has been referred to earlier this afternoon. A second option would be to provide a minimum assessment of all farm residences. This would certainly provide property tax from all occupied residences, and it wouldn't require the increase in the number of inspectors. But it doesn't deal with the inequities we've described. It simply sets them aside. Over a period of time as property values change, those inequities would remain to be faced by each individual family.

A third option could be to provide legislation to allow the rural municipality the freedom of choice, the right to choose whether or not farm residences are to be taxed. I know that approach is not favoured by the Association of Municipal Districts and Counties. They've simply asked the province to make farm residences assessable, provided there is no increase in farm taxes. The association cannot have it both ways. It seems to me that those of us with this problem should be given the tools to solve this. I believe we would recognize the legitimate concerns of those purely rural municipalities by adopting this kind of approach. We could provide the authority for urbanizing rural municipalities to resolve their unique concerns. We would recognize that about half of our municipal districts and counties still, as the Member for Highwood mentioned, remain on the 1960 assessment guidelines while the others are caught in the 1979 guidelines. Obviously, as a province we have a responsibility as well, and we'd have to consider the equalization provisions. We'd have to make sure that these were reviewed

and updated to ensure that there is fairness among and between the municipalities where they share common services or pay for common programs such as schools.

Members of the Assembly, it is this room; it is we who have established these rules. It is we who have charged our minister or the Executive Council with providing regulations. It is this room that has created these exemptions, these rules, and these grants. The time is long overdue to look at these, to look at the inequities. I urge the Assembly to support Motion 217.

MRS. CRIPPS: Mr. Speaker, I hadn't expected to get quite so much time today. Oh, I guess I won't.

MR. MUSGROVE: Mr. Speaker, I was looking at the speakers' list and found out that I was supposed to be next on it. So it is my pleasure to ...

MR. SPEAKER: May I briefly interject to say that any list the hon. member might have referred to is not a Speaker's list. I haven't any.

MR. MUSGROVE: Pardon me. It is a "speakers' list" that we have before us.

Mr. Speaker, it is my pleasure to make some comments on motion 217. Certainly, I congratulate the Member for Highwood for bringing this important matter to our attention and to the Legislative Assembly today. I would be the first person to agree that there are inequities in municipal and rural taxation and assessment. For instance, we have some acreage owners that, in my opinion, are overtaxed. We also have some acreage owners that are able to get under the agricultural exemption and pay very few taxes. One of the points we should make is that we certainly don't want to load the farmers up with more taxes, particularly in this time of economic problems.

Last year we had a private member's motion asking for a minimum tax for all residences. That is a very good concept, but I certainly disagree with the fact that all residences use the same amount of services. For instance, some old couples pay school taxes for years after their families have grown up and gone. Intensified farming organizations have small farms but use our roads more than the average farmer who farms many more acres than they do.

Mr. Speaker, I spent some time on two different committees on assessment and taxation of rural municipalities, which were sponsored by the Alberta Association of Municipal Districts and Counties. There was a proposal several years ago that they have an assessment on a farm or rural residence, whether it's an acreage owner or a farmer, and an assessment on the land. Then that person would pay the taxes on the highest assessment. That way a person with a small farm and a very expensive house wouldn't be able to use the agricultural exemption as a way of not paying taxes on his entire operation. This proposition was turned down because some felt that it was difficult to administer.

The mandate of a committee I sat on in the late 1970s was to clear up some of the inequities in assessment and taxation. The proposal was to increase the assessment at different levels. Farmland at that time was assessed on its productive value at a maximum of \$40 an acre. The new proposal was to assess it on a productive value of \$240 an acre. At the same time, the residence would be assessed and exempt the equivalent of a class 3 bungalow, which at that time was about \$40,000. He would then pay taxes on the balance of the assessment of that bungalow.

It was the intent at that time that acreage assessments would be increased about four and a half times what they were previously. Railroads would be increased 10 times. Oil production equipment and machinery were brought up to 65 percent of their current market value. Farmland was increased approximately six times its current market value, plus some taxes on the better dwellings. The assessment on the oil production equipment and machinery, of course, backfired on us. As a result of the fact that the current market value of that increased and farmland and residential areas decreased, they wound up paying quite a large proportion of the tax dollar. As you all recall, we made some changes in that last fall to redistribute those taxes.

The proposal at that time was that all acreages plus a site — I believe it was three acres — would be assessed as residential, and the rest would be assessed as farmland. That's where the reduction came about. For some municipalities this formula did reduce the taxation on acreages, but not all municipalities are on this formula. As I understand from this afternoon, the municipal district of Foothills is one that has not yet adopted that. I believe, though, there are about two-thirds or better of the municipal districts and counties in Alberta that now use that formula for assessment and taxation. In our case it changed the mill rates considerably. Because of the increased assessment in the county where I live, the mill rates were reduced from approximately 100 mills to about 16 mills without any great change in taxes.

I've been told that at the present time the Association of MDs and Counties have a new committee working with the assistance of the Department of Municipal Affairs to come up with a new proposal which they are about to present to all the counties and municipalities this fall. The proposal is not that much different from the either/or concept I mentioned at the start.

Mr. Speaker, during the time I spent on assessment committees, it was decided that it was impossible to define a farmer. I know people will argue that point. I agree that anybody who makes his living producing crops and livestock can easily be defined as a farmer. But there are certainly a lot of people who are almost a farmer or not quite a farmer, and that's where the problem arises. We tried to do it by income. Of course, we have people who have farmed all their lives, have a few bad years, and have to rely on some other source of income for their livelihood. Does that make them not a farmer? Do we go about and assess their house at that point?

We also have people who are involved in several industries, farming being one of them. If they live on the farm and farm it, they should be defined as a farmer. However, in lots of cases their income from other sources is higher than that of the farmer. We have beginning farmers who have an off-farm income and put all the revenue from their agricultural operation back into it to increase their equity. Saying they're not farmers would seem unfair. We went through all the angles of that and decided that defining a farmer was impossible.

The new proposal by AAMDC takes away the need to define a farmer. It also answers the question of minimum tax. As I have been told, the new proposal is to assess all the dwellings in rural Alberta with a three-acre site. The rest of the land would be assessed as farmland, and the equivalent of the assessment on the dwelling would be exempt as farmland. In other words, if you have a dwelling site that is assessed at \$40,000, you will be exempt from taxation by \$40,000 worth of land assessment. If you have

a dwelling and site that is assessed at \$40,000 and have an assessment of \$10,000 worth of farmland, then you would pay taxes on \$30,000.

The average farmer's quarter section with a good home would pay a few dollars more taxes per year. As I understand it, for most half section farmers with a good home the taxes would relatively be the same as they are now. Of course, there's got to be a cap on this amount of assessment. I don't think that's been established yet, but to give you a reason why that cap needs to be there: if you had a million dollar home, you should not be allowed a million dollars worth of farmland exemption because you own that home. So there will be a cap put on it.

The current proposal also takes away the urban advantage, which is currently on residential land around urban centres. I understand it's fairly substantial around the cities of Calgary and Edmonton and is reduced according to the size of the urban centre that it's close to.

That's my knowledge of the new proposal, Mr. Speaker, but I think it's got a lot of merit. I recognize inequities in rural taxation and agree they should be corrected. I'm looking forward to this new package from AAMDC and Municipal Affairs, and I hope that it will be able to correct some of these problems.

Thank you very much, Mr. Speaker.

MRS. CRIPPS: Mr. Speaker, last time I debated this same issue was April 12, 1983. Unfortunately, the situation has not changed and we're talking about it again. It looks like we may be talking about it again and again. As I said at that time, taxation has probably been debated in the coffee shops, in the municipal taxation offices, and by the provincial and federal governments more than any other topic — and certainly by the taxpayers, who don't like it.

Mr. Speaker, in my motion I proposed a base tax which was intended to cover the cost of services provided to the residential property. I want to differentiate between the property and the residential property, because I believe it's the residential property that utilizes most of the services provided. In order to illustrate my point that it's a fee for service, I'd like to give the Assembly a brief history lesson, which will re-emphasize the original reason for property taxation.

In [1884] the first school district in the Northwest Territories — what is now Alberta and Saskatchewan — was formed. It was established in Edmonton. The schools were financed by grants from the dominion and territorial governments and by school board tax levies on the properties. That school district was fairly nebulous at the time, as the people were few and far between. In [1887] they passed the statute labour ordinance, which provided for the establishment of labour districts, a simple economic system of taxation for public improvements, roads, and highways. Residents were assessed to perform road labour in proportion to their land holdings. If a farm or business did not want to do the labour, they could pay \$1.50 a day. The Hudson's Bay Company and the CPR actually paid the assessment of \$1.50 a day. That was the only real source of capital for that district.

In 1897 these labour districts were renamed local improvement districts or LIDs. By 1899 there were 158 LIDs. During the hard years of 1914 to 1917 and the early '20s, many of those districts dissipated again.

MR. SPEAKER: Order please. The hon. Member for Drayton Valley is entitled to be heard. If there are members

who have other designs for this debating period, may I suggest that they keep it down to a dull roar.

MRS. CRIPPS: Mr. Speaker, I'm used to classes that aren't interested in history. But you're going to get the lesson in any case. I'm used to that too.

In 1903 the passing of the local improvement ordinance provided for self-governing LIDs with elected councils. Taxes at that point in time were levied on an acreage basis, ranging from a cent and a quarter to five cents an acre. That's \$2 to \$8 a quarter. The territorial government assisted in collecting arrears. Many of those arrears were paid in the form of labour. They worked off their taxes. Those that couldn't pay simply worked on the road. If you ask your fathers and grandfathers, I think many of them will remember working off their taxes. So the taxes originated as a fee for service.

In 1907 — Alberta was now a province — the urban local governments came to participate heavily in the process of building up the facilities needed to provide the basic amenities of life. The rural areas continued to rely to a large extent on the province and on working off the taxes.

In 1918 the acreage basis of taxation was abandoned in favour of a system of land value. In 1918 we went to this horrific system we've got now. I might add that the original districts formed were school districts. The Member for Bow Valley reminded me of this episode when he said that different people do not get the same services.

In 1914, when Edmonton wanted to develop the first school district, there was a horrendous fight. The bachelors felt that since they didn't have any children, they shouldn't have to pay for raising them. The Hudson's Bay Company was concerned that they would have to pay large taxes, so they didn't want a school district. In fact, they brought in all their factors from Slave Lake, Calgary, and Athabasca Landing to vote against setting up a school district. Donald Ross, who ran the Edmonton Hotel, decided they needed a school district, and he sent all his boarders down to vote in favour of the school district. It was a very cold day, and they had only one coonskin coat, so they took turns voting. The returning officer knew that if somebody was coming down the street in a coonskin coat, they were going to vote for the school district. Mr. Speaker, I remember that for a plebiscite not too long ago in Edmonton they said everybody who was in a hotel room overnight had the right to vote, so nothing's changed.

From 1913 to 1935 the municipal districts remained static, and in fact that was the unit of government which was empowered and required by the provincial government to provide for local public works, roads, public welfare, sanitation and health, and protection to persons and property. Now, please note the services which the municipal districts were required to provide. They levied property taxes to pay for these services, as well as for the requisition of school and hospital districts. If I remember rightly in the case of welfare recipients, the local government encouraged movement to another jurisdiction because they had to cover the cost of the welfare within that jurisdiction. I remember that in 1955 Ma-Me-O Beach had two families on welfare whom they encouraged to move to Wetaskiwin so that they didn't have to collect taxes to pay for them.

Many of the schools, such as the one I went to, were built with local labour, and often the taxes were collected from the school district in question. If I remember rightly, they said they wouldn't pay the teacher if we did get one. We got one, and finally the municipal district agreed to

pay her. But in many cases if the local jurisdiction couldn't pay the teacher, they were paid in produce or services. I can remember having school dances and pie socials to raise money to help pay for whatever extra services we needed in school and, in some cases, to pay the teacher.

Gradually the public health and welfare programs — the old age program, mothers' allowance, hospitals, et cetera — have been transferred to the provincial and federal governments. During this period, especially in the 1920s and '30s, it was common for farmers to work off their taxes, as I said. It was also common during the Depression for welfare recipients to do government work, road building and the like.

Mr. Speaker, you'll note that we've moved to an ability to pay, supposedly. That's a valuation of assets. Certainly, no one will argue against a certain apportionment of the taxation being levied on a valuation of the total tax base, as there's no question that some land is more productive than others and, therefore, more valuable.

While I'm talking about the valuation of farmland, I'd like to make a plea, which has nothing to do with the motion, to exempt the watershed areas from the assessment. If you had 160 acres less 20 acres of watershed areas, we'd have a lot more consideration being given to maintaining valuable watershed resources in the province. When we look at taxation, we should surely look at that.

To get back to the motion, Mr. Speaker, I told the member it is innocuous and we should pass it. I believe it is. More to the point, maybe we should act on it. It says "to provide a more equitable assessment of all rural residential parcels of land." The Member for Highwood outlined the inequities between the different rural properties. If, for instance, one residential property pays \$2,000 taxes and another pays \$200, it seems to me that if taxation were fair, the property that pays \$2,000 taxes would get 10 times the services. They don't. They get exactly the same services whether they use them or not.

Mr. Speaker, I outlined on page 499 the inequities of 12 residential properties in my constituency in 1983, and the Member for Highwood has amply given an illustration again. There is only one parcel I want to talk about; it's a 40-acre parcel a mile and a half from our place. When it was 160 acres with a house on it, that parcel paid no tax — no taxes whatsoever. Then they subdivided 120 acres off. The tax on the 120 was \$800 and some, and the tax on the 40 acres was \$467. The fellow used a section of the tax Act on the criteria to determine a farmer. One of the criteria is enough resources or income to support one person. He took a particularly low-income quarter section in the area and said, "That's how much money it takes to support one person." He's had his land re-evaluated. The 40-acre parcel that was paying \$467 now pays absolutely no taxes. That's not fair.

Paying \$467 for a poplar log cabin was not fair, but neither is paying no taxes for the services he receives, which are exactly the same services, by the way, that he received when he paid \$467. In this instance the owner feels that he should pay some tax. So he's got a choice: he can pay the \$467 or he can pay nothing. His choice is fairly simple; he pays nothing. He'd be willing to pay a tax if it were fair, but he's certainly not willing to pay an unfair tax. I don't blame him.

I'd like to give you one other example, that of a senior citizen, a 75-year-old widow, living in a small hamlet in my area. She and her husband had worked for seven years building a house on a quarter section. They had three

quarters in the area. They had just finished it and moved into it when her husband died, so she rented out the land. The county determined that she was no longer a farmer. They had spent seven years building this two-storey house. They assessed it as if it were in the city of Edmonton, and she paid \$1,300 over and above the senior citizens home-owner grant, which everyone knows is \$1,000. Needless to say, the old lady had to either sell the farm or move out of the house. She moved. I think it's absolutely shameful when a senior citizen who has spent her life farming is suddenly declared a nonfarmer because she rents the land out. Quite frankly, she was getting far more revenue from the three quarters of land than the \$3,000 we use to say it's a so-called farm, but she wasn't doing the physical job of farming.

There should be a base tax. I don't care whether it's \$200, \$300, or \$500, but there should be a base tax. Maybe the school foundation could pick up the next \$200 if we still want to maintain the \$200 school foundation grant. But the fact of the matter is that today the school foundation grant is covering costs that are not school foundation costs but municipal costs. Some countries have incentive taxation, where improvements are a tax credit. I'm certainly not about to advocate a tax credit, but by the same token these improvements should not be a tax liability. Right now, that's what they are. Every time you put in an improvement or a pink toilet, you have to pay higher tax. In April 1983 I said what I thought about the assessment manual, and my opinion certainly hasn't changed.

Mr. Speaker, even the people who are having a free ride — that is, the 10 percent of the population in most counties that aren't paying any tax — do not believe it's fair. They believe we should have equalized taxation for services provided.

I urge hon. members to vote in favour of this motion. I think it's timely, well put, and we should consider it.

MR. PURDY: Mr. Speaker, in rising to participate in this debate, I would first of all like to thank the Member for Highwood for bringing this very important subject forward. I've done it in the past, as has the Member for Drayton Valley, and it appears that we're still not reacting to the needs of some of the MLAs in rural Alberta. The caucus procrastinates on this particular subject and has been doing that for 14 years, since I've been a member of the government. As I said before, one of these days we're going to have to bite the bullet and make a decision on this very, very inequitable situation that takes place in rural Alberta. I represent a constituency, Stony Plain, which has a mix of acreage, farm, and commercial assessments. As has been said by other hon. members in this House today, there are some real inequities out there. You only had to listen to the members for Highwood or Banff-Cochrane laying out some of the examples that take place in their constituencies. It's the same in my constituency.

Over the past number of years, Mr. Speaker, I've had an excellent working relationship with what was formerly called the Parkland acreage owners association. About two or three years ago they changed the title to the Parkland rural residents association. They have been working with other groups in the province of Alberta to try to get this tax inequity changed so that people in the rural parts of the province get a better and fairer share of the taxes they have to pay. I agree with the Member for Drayton Valley that we have to have a base tax. I say it for this reason. Families living in the rural parts of the province use the

same roads, the same school buses. If someone can beat the system by claiming they are a farm, they pay little or no taxes. But they're still using the same services provided by the municipality, therefore putting a higher tax dollar on the person that has not beaten, or can't beat, the system.

The other thing I see wrong with the whole taxation system, and I've spoken on this particular matter before, is the seven-year general assessment. I get representation on an ongoing basis that we should have, in this computer age, a small increase in our taxes every year instead of one large jump at the end of seven years. There's a real problem with that.

The rural people, as I said earlier, contribute to the tax base in the province. In some areas they don't have the protection that we in the urban areas have, such as police, fire protection, and those types of municipal services that are paid for by the tax base. We who live in an urban centre have paved streets, sidewalks, police and fire protection, and those many important things available in the urban setting. However, for the person in the rural area, any of the things he has to do around his yard is an extra expense to him, and it's also an extra tax that the county or municipality can add on. If they want extra police protection, they have to pay for it through their tax base.

Mr. Speaker, I see that the time for this particular debate has concluded, so I will adjourn the debate.

SOME HON. MEMBERS: Question.

MR. SPEAKER: Could I just intervene for a moment? I think we have a minute left. Is it the intention of the Assembly to vote on this resolution, or will there be another speaker?

MR. PURDY: Mr. Speaker, I adjourned the debate on the resolution.

MR. SPEAKER: Is that agreed?

HON. MEMBERS: Agreed.

MR. SPEAKER: I hadn't put the question on that. I'm sorry; I missed it. The debate is adjourned accordingly.

head: **PUBLIC BILLS AND ORDERS**
OTHER THAN
GOVERNMENT BILLS AND ORDERS
(Second Reading)

Bill 214
An Act to Amend the
Guarantees Acknowledgment Act

MR. NELSON: Mr. Speaker, in moving second reading of Bill 214, An Act to Amend the Guarantees Acknowledgment Act, I wish first of all to thank the many people who have assisted me in obtaining information through the many volumes of books of law, the Canadian Charter of Rights, dictionaries, and what have you. The research done by some on this subject is far more extensive than I would have been able to do on my own. Also, to contract this issue into one-half hour of discussion is very difficult as the subject certainly requires a couple of hours to fully expand on the issue of an unconscionable document that we are about to discuss.

Firstly, Mr. Speaker, I'd like to discuss the purpose of the Guarantees Acknowledgment Act. The common purpose of the Guarantees Acknowledgment Act and the statute of frauds is, in part, the prevention of fraudulent practices. More particularly, the Guarantees Acknowledgment Act is designed to protect the ordinary individual who, through lack of experience or misunderstanding, might otherwise find himself or herself subject to onerous liabilities at law, the nature and extent of which they did not properly appreciate when they entered into the undertaking in question.

It's interesting to note and emphasize the reason, in part, for the Act: to protect the ordinary individual or unsophisticated investor. How is that person going to be protected when they sign an unconscionable document such as a bank guarantee, or other form of guarantee for that matter, and don't understand what is actually in it? Presently the guarantor has to obtain an acknowledgment that they are aware — and I repeat, Mr. Speaker, that they are aware — of the contents of the guarantee. The guarantee is acknowledged by a notary public, and unless they are lawyers, very few notaries probably know what a personal guarantee is, let alone what is in it. Can you imagine a notary trying to protect a person by ensuring the guarantor is aware or understands the contents of a guarantee when they don't know themselves? What kind of protection is that?

In reading Baxter's *The Law of Banking*, it's interesting to note:

A guarantee is not a contract ... necessitating full disclosure of all material facts. The bank is under no duty to volunteer information concerning the financial position of the principal debtor to a prospective guarantor and, in fact, it may be in breach of the banker-customer contract if it makes such disclosures without the customer's consent express or implied.

I would like to repeat that a guarantee is not a contract necessitating full disclosure of all material facts. However, Mr. Speaker, the fact of the matter is that many bank people, including managers and lending officers, don't understand what is in the guarantee that they offer and won't and usually can't advise you because of that fact. Bank lawyers have made it so complicated that they don't want their people involved with it. To cite an example, a loans officer at the Continental bank in Calgary where I did business told me he had never read a guarantee throughout. In fact, that lending officer could not inform me of the real contents of the guarantee he wanted on behalf of his banking institution.

A study requested by the Attorney General concluded that the Guarantees Acknowledgment Act should be retained. They took that position because they believed that if the Act were repealed, a significant minority of persons would sign guarantees without appreciating the nature and extent of the legal obligation thereby taken. It is relevant to note, too, that the guarantor receives no benefit from the transaction. He enters into it as a matter of accommodation to the principal debtor, and in most cases it is a small business person putting his life on the line to a lending institution particularly because of his entrepreneurial spirit and desire to have some freedom of choice in the business community.

Although this legislation is as far as I know peculiar to this province, I note that in England the Latey committee's report seriously considered a suggestion that guarantees should be enforceable only if entered into after a solicitor has explained the position. The reason, of course, is that a solicitor is trained to explain a legal document, or legal jargon if you will, to a layperson or an unsophisticated

investor. The concerns with the Guarantees Acknowledgment Act which were addressed in a report of the Institute of Law Research and Reform are still valid today. A bank guarantee is an extremely complicated document with implications which are probably not apparent at first glance and, in that event, at second or third glance.

The question which must be answered is how best to ensure that individuals signing a guarantee fully understand the legal significance of their action. On the surface it may appear that Alberta has gone one step further than other provinces insofar as protection is concerned. However, the provisions under the Act do not necessarily offer any greater protection than is available elsewhere and in some cases possibly even less. In continuing with their report, the committee indicated:

Ideally we think that acknowledgments under the Act should be taken by legal practitioners.

This is the Attorney General's committee of legal people suggesting that these acknowledgments under the Act should be taken by legal practitioners, not necessarily notaries, unless they are in fact lawyers. For example, a claim by a guarantor could arise where the guarantee is enforceable and the guarantor alleges that the notary mislead him as to the nature of the guarantee. Such an allegation is presumably rare and difficult to prove. However, if it were established, we see no reason to relieve the notary from his common law liability.

Isn't this lovely? Members of this Legislature could be sued for giving information that could be misleading or incorrect because they didn't understand a document and its implications. I know that we have some smart legal people as members of the Legislature. We also have people here who may understand guarantee documents. But how many of us do not really understand them? I can assure you that prior to my getting involved in the implications and the complexities of guarantees, I didn't know what they meant or how to read them. I will state categorically that as a notary under our Act I will never acknowledge a guarantee or any other document that I do not totally understand. I do not wish the person undertaking the liability to come back to me as not informing him correctly of the implications of a document that I may not have understood. The notary must satisfy himself by examination of the guarantor that the latter is aware of the contents of the guarantee and understands it.

It is the opinion of the committee that the emphasis on the contents of the guarantee is misplaced and that attention should be directed instead to the legal significance of the obligation. In fact, the instrument creating the guarantee is a complicated document. Furthermore, there is difficulty in certifying another person's degree of comprehension. In other words, those of us who are not trained to interpret legal documents to the extent necessary to understand them in that plain old language of English should not be doing it. Therefore, it is my suggestion that until such time as we have the laws of this land in English rather than in legalese, only a person trained in legalities, such as a lawyer, should offer advice or acknowledge a guarantee.

Of course, there is the argument that a person confronted with the facts of a guarantee would in all possibility still sign that guarantee. Maybe that is the case, but when they sign it and are given the opportunity to understand by full disclosure the horror in some of these documents, at least they would know what they are signing.

I'd like to quote an excerpt from Holden, *Securities for Bankers' Advances*:

Our concern is neither misplaced nor the product of undue cynicism. The following advice set out below is all too often well known to creditors. We see how a banker when taking a guarantee proceeds to strip a guarantor of virtually all those rights which the law would otherwise confer upon him, at any rate where they conflict with the bankers interest. In view of the fact that a contract of guarantee is a relatively simple transaction, it may be thought strange that the guarantee forms employed by the banks are such lengthy documents. Even in recent years fresh clauses have been added to them. The highly skilled legal advisors employed by banks try to foresee every possible contingency. But alas, even they are not gifted with the wisdom of Solomon, with the result that very occasionally a guarantor is able to escape some liability. When that happens, yet another clause is added and in this fashion the mesh around future guarantors is drawn tighter and tighter.

Mr. Speaker, I would like to briefly go through some sections of a guarantee. I'm going to use the Royal Bank of Canada's guarantee and postponement of claim form. This form is used by the bank in Alberta and is some three pages in length with very, very small print. I would like to emphasize the name of the form: a guarantee and postponement of claim form.

What is a guarantee? It's a deed or written agreement whereby a person, not being a corporation, enters into an obligation to answer to an act, default, or omission of another person or persons. In other words, a guarantor, a small-business man guaranteeing a loan to his own company, puts up his personal assets to cover or add security to a loan he has undertaken on behalf of his company. The other part of the title, postponement of claim, is basically to defer a claim until such time as the primary lender, being the individual company or other but other than the guarantor ...

It's interesting to note that hidden away in this document of horror are two other forms that are not identified in the title. One is another guarantee, called a continuing guarantee. A continuing guarantee is one relating to a future liability of the principal under successive transactions which either continue his liability or renew it from time to time after the original liability has been satisfied. Isn't that lovely? Now we have a guarantee, a postponement of claim, and a continuing guarantee. But wait; we still have an assignment in there. An assignment is determined as a transfer or making over to another the whole of any property, real or personal, in possession, in action, or of any estate or right therein.

I know it is probably difficult for all to understand what I've just said. We have a personal guarantee that says you have a guarantee, a postponement of claim, a continuing guarantee, and an assignment — all in one. It's a document you thought of as a personal guarantee before you signed it. Most people think of a personal guarantee as being for a set figure or amount, but this is not the case at all. I'll deal with a couple of items within the guarantee form itself. At the outset, I would like to state that the guarantee form used by the banks is in fact an unconscionable document. There are those who suggest that it is not, because you do not in fact have to sign it.

First of all, banks in Canada require of the average small-business person some 279 percent security for any moneys loaned to that person or small company. Not only must the company show that it can operate successfully;

the security of that company offered to the lending institution should cover the debt that has been placed against the company. In addition, the small-business person must give a personal guarantee, which ties up virtually his whole life.

In dealing with some sections of the guarantee and postponement of claim, I would like to run through a couple of paragraphs that have some extreme difficulties in them. First of all, we discussed the continuing guarantee. In one paragraph it states:

This guarantee shall be a continuing guarantee and shall cover all the liabilities, and it shall apply to and secure any ultimate balance due or remaining unpaid to the Bank.

In other words, if I go out and borrow \$50,000 as a capital investment and for some reason or other I happen to go broke and the guarantor is called upon to pay that debt, there may be additional moneys that he does not feel obligated to pay that he must pay to the lending institution under this particular section. These could include such things as interest payments, overdrafts, lawyers' costs, specific bank charges, bankruptcy fees, receivership fees, and so on. Remember that as notaries, most of us do not understand that type of thing unless we are of the legal profession.

It also says in part:

and this assignment and postponement is independent of the said guarantee and shall remain in full effect notwithstanding that the liability of the undersigned or any of them under the said guarantee may be extinct. The term "liabilities", as previously defined, for purposes of the postponement feature provided by this agreement, and this section in particular, includes any funds advanced or held at the disposal of the customer under any line(s) of credit.

It says that the assignment and postponement is independent of the aforementioned guarantee. Isn't that lovely?

You now have a third document. Let's go down to another section. It states in part:

and may apply all moneys at any time received from the customer or others or from securities upon such part of the liabilities as the Bank deems best and change any such application in whole or in part from time to time as the Bank may see fit, the whole without in any way limiting or lessening the liability of the undersigned under this guarantee, and no loss of or in respect of any securities received by the Bank from the customer or others, whether occasioned by the fault of the Bank or otherwise, shall in any way limit or lessen the liability of the undersigned under this guarantee.

That is unconscionable. Can you imagine offering a bank security for a loan, they lose it, and you — guaranteeing the loan for another person or your little company — are still liable to pay that debt because the bank lost the security that you gave them or was given to them by a third party? How many of you would know, without reading that document and advising your client, the true meaning of that particular section of this unconscionable document?

The bank holds the hammer, and you are not given the opportunity to negotiate clauses in or out of it. The only part you are able to play is whether or not to sign. If it's the survival of your business or associate, it is likely that you will sign a document. Again, it is important to ensure that the person signing has complete knowledge of the document he has before him.

I'd like to read a portion of a further paragraph to give you an idea of how this document becomes unconscionable.

This guarantee and agreement shall extend to and enure to the benefit of the Bank and its successors and assigns, and every reference herein to the undersigned or to each of them or to any of them, is a reference to and shall be construed as including the undersigned and the heirs, executors, administrators, legal representatives, successors and assigns of the undersigned or of each of them or of any of them, as the case may be, to and upon all of whom this guarantee and agreement shall extend and be binding.

Isn't that something? This means that if the principal were to default and you, as the guarantor, were to pass away, your estate or your heirs would then carry that debt. However, if your wife and kids were placed in that unfortunate situation, they could stop the debt collection process if they formally renounced inheriting your entire estate. Isn't that lovely? Of course there are ways, one being that all loans made by the bank should be insurable. That would cover their loans and your outstanding debt if you were to pass on.

Mr. Speaker, I've just given a very short overview of some of the unilateral, unconscionable actions taken by banks and their personal guarantees. The Bill introduced here today will assist the businessperson in at least being able to be encouraged to the proper channel of interpretation and force the banks to ensure to the greatest extent possible that those people who are offering to sign personal guarantees do so with full knowledge of the contents of those guarantees.

The first part of the Act requests that we change the term "notary public" to "lawyer". This change has been addressed by the committee set up by the Attorney General and also by the Latey committee, fully recognizing the complexities inherent in the guarantee and postponement of claim form offered by banks.

Secondly, I'm suggesting, and I've placed into the Act, that a guarantor "appears before a lawyer who is not acting for the person to whom the obligation is to be incurred." Many times people attend the bank's lawyer for the purpose of having the guarantee acknowledged, and believe me, that individual pays for that visit in many more ways than one.

The third area of change I am requesting is that we remove the term "aware" in the document and replace it with "that he fully understands the contents of the guarantee and the obligations under it," at which time a lawyer could then issue the certificate indicating that the client understands the complexities of the document. I repeat: the term "aware" should be changed to "fully understands."

Fourthly, to recognize the additional burden that will be placed on the lawyer, the fee payable for issuing a certificate under this Act would be a maximum of \$50 rather than the current \$5 paid to a notary public.

Mr. Speaker, under section 5.9 of the Canadian Charter of Rights, prosecution and defence of criminal and other statutory offences, it states:

Fundamental justice like natural justice or fair play is a compendious expression intended to guarantee the basic right of citizens in a free society to a fair procedure. The principles or standards of fairness essential to the obtaining of fundamental justice are in no sense static and will continue as they have in the past to evolve and develop in response to society's changing perception of what is arbitrary, unfair or unjust.

Mr. Speaker, Bill 214 does not solve the complete problem of a guarantee. It takes into account the unsophisticated investor or businessperson who does not have a bank of lawyers to protect his butt. It is time we showed

leadership in ensuring that our unsophisticated investors and small-business persons are shown to have protection in the province of Alberta. I am sure that each of us in this Legislature wants to see justice done. As notaries public, it is our duty only to examine an individual to determine whether he is aware of the contents of the guarantee. I'm sure we would not like to see a person we know sign an unconscionable document that neither of us understands. This is why, my friends, we need to enact Bill 214 to at least start a process where people knowingly do something rather than unknowingly become a victim of circumstances beyond their control.

This is only a first step. In the future it is my intention to encourage the government to examine all guarantees, postponements of claims, continuing guarantees, and assignments. If banks can get away with documents so unconscionable as these personal guarantees, as we refer to them, others may try to do the same thing and in fact may already do so. I recognize that banks or other lending institutions must protect their depositors and investors and stockholders. However, if they had trained people in positions of responsibility giving out loans, it is quite possible that documents of this unconscionable nature would not be required and possibly guarantors and businessmen may not have gone into bankruptcy or receivership and seen the hardship that has been given to them through guarantees.

Banks have training programs and the resources to properly train staff to loan moneys without using these unconscionable documents. Let's protect some of the rest of society. People who make obligations do so honourably with the full intention of repaying those obligations. It is my intention, as I said, to pursue this matter to the extent of possibly legislating a form that a bank or other lending institution may use as a form of guarantee to protect the integrity of the guarantor and the businessperson insofar as the exact amount that is placed on a guarantee through the loans that are given to an individual or business. In fact, banks now ask for guarantees on the back of cheques, and they should be going to a notary public to be acknowledged. They don't even send them to a notary public. That is also unconscionable.

Mr. Speaker, considering the large volume of material that's available on these things — the Charter of Rights, *The Law of Banking*, the law of contract, and the many committee reports that have been written on this issue — it is our duty to ensure the protection of some of these people who are unable to obtain full information in the manner in which the Act is presently written.

Mr. Speaker, I ask the support of this Legislature for a very important piece of legislation that will be to the benefit of the citizens of Alberta. I'd like to thank you for the opportunity to present this objective.

MR. STILES: Mr. Speaker, I'm sure members in the House today are amazed to see me on my feet for the second time. I seldom speak, as I said earlier this month, but today I find myself in the surprising position of speaking twice in the same day.

I rise to speak to the proposed Bill with somewhat mixed feelings. Partly because I am a lawyer, I have some difficulty with the proposal to take something that has not been in the exclusive domain of lawyers and put it there and, at the same time, jack up the fee the lawyer is allowed to charge by a thousand percent. Having said that, I'd like to look at the purpose of the Guarantees Acknowledgment Act, not the Bill we're debating but the actual Guarantees

Acknowledgment Act, which it is proposed be amended. It's a one-page Act. Well, it's two pages: one page of paper printed on both sides. But it's amazingly brief. Somebody other than a legislator or a lawyer must have drafted it. In any event, the whole purpose is to protect the individual and to prevent fraudulent practices.

In the course of my brief practice of law, I have had many occasions upon which to carry out the requirements of the Guarantees Acknowledgment Act; in fact, too many times to count. I have to say that in almost every instance — I'm trying to think of an instance in which this did not occur — the person coming into my office wanting to have his guarantee acknowledged knew what he was signing and, in addition, was really asking me to acknowledge it in the certain knowledge that if he didn't sign the guarantee, he wouldn't get the loan he was applying for. In almost every case this is a loan from the bank.

I ask some fairly fundamental questions of a person coming to me with a guarantee. The first one is: "Have you read this document?" In most cases they hadn't. As the hon. Member for Calgary McCall pointed out, the things are usually in pretty fine print, and in the way they're put together, they contain a lot of language that's not the easiest in the world to read. They get past about the first five lines and say: "Oh well, what's the difference? I have to sign this thing anyway, if I want the money." That's the basis upon which most people sign these things.

The second thing I ask them is: "Do you understand what this does?" In almost every case the person says: "Yes. If such and such doesn't pay, I'll have to pay." "Do you understand that you'll have to pay all the costs and the interest and any solicitor's fees that may be involved in the case of a default and your having to make good?" "Oh yes. I understand all of that." It's a fairly fundamental thing. They're signing something that says that if the entity which is getting the loan doesn't repay it, or defaults, the individual signing the guarantee will have to pay. That's really what these things boil down to. It's a very practical document, and that is usually what happens. Very seldom is it necessary for me to actually explain the function and the purpose of the guarantee and what will actually take place if there's a default. It does happen on occasion.

In fact, Mr. Speaker, most times that a personal guarantee is required, it is because the individual involved has been advised or there's some other reason that he's incorporated his small business and formed a company. One of the reasons for forming the company is to avoid liability in case the company or the business goes broke. It wasn't always the case that small businesses were incorporated. In very many cases small businesses weren't incorporated 20 or 25 years ago. They were operated as proprietorships, in which case the individual was completely liable for every debt, for every liability that came along in the operation of his business. But by incorporating, the individual can limit his liability to the amount of money he has conveyed to the company for shares or that he has loaned to the company by way of a shareholder's loan to himself. Accordingly, over the years the banks have recognized what individuals were doing when they incorporated themselves or their small business, and the banks have used the personal guarantee as a means of protecting the interest of the bank and the depositors, in the sense that if the loan were to go sour, they had some recourse to have the person who was actually the proprietor of the business repay that loan. That's by and large how guarantees have come to be used by the banks.

Offhand I can't think of a case where someone has come to me when he's been asked to sign a guarantee because some other individual is borrowing money and he's guaranteeing that person's loan. That happens very, very seldom. In those cases, I think it's very important that the individual signing the guarantee knows exactly what he's getting into. I support the hon. Member for Calgary McCall in bringing this forward in the sense that in those cases it's very important that the person signing the guarantee be able to obtain legal advice from someone who knows the nature of the document he's being asked to sign. In that context I can certainly support the principle of this Bill.

I take issue to some degree with the hon. member's suggestion that the documents are written in legalese and not in English. In actual fact, the laws of our province are by and large quite understandable. The problem with writing laws in English is the English language. It is capable of communicating using words that may mean one thing in the mind of the person uttering the words and something quite different in the mind of the person hearing or reading them. Accordingly, drafting legislation has become a very technical art in which it's important to make sure there isn't any ambiguity in the language. Because the English language is capable of so much ambiguity, it becomes very difficult to write laws that do what they're intended to do, and it's critical that they be written in that fashion. So it's not a matter of their being written in legalese to satisfy lawyers and keep lawyers occupied and earning fees; it's really a matter of writing them in such a way that they can't be misconstrued. That is a difficult exercise when you're using the English language.

As the hon. Member for Calgary McCall points out, at the present moment notaries in the province may not be lawyers. In fact, the members of the Assembly are all notaries, automatically appointed upon election. I'm sure some of our colleagues in the Legislature don't have the training to properly advise someone on the signing of a guarantee. But I have a great deal of confidence in my colleagues. They would not undertake to advise someone in this capacity if they felt they weren't properly trained to do so. I'm quite sure that if they felt they weren't personally able to advise him, they would refer that individual to a lawyer. I don't have a concern in that regard, but I do have some concern with some of the appointments of notaries that have been made and continued over the years. Perhaps some of the individuals in the province who are notaries may not have the technical training and knowledge to advise someone properly, and I think the Bill has merit in that context.

In his remarks the hon. member spent a considerable part of his time dealing with the content of the guarantee forms presently being used. Unfortunately, his Bill doesn't address that issue. The Bill only addresses the issue of whether or not a lawyer or a nonlawyer should acknowledge the guarantor's understanding of what he's signing. It seems to me that perhaps the Bill doesn't go far enough, in the sense that maybe we should be looking at the content of these forms of guarantee that are used by the banks. There's no question in my mind that the terms of the guarantees that are in use are stringent and go a long way in tying up the guarantor and his heirs and assigns to protect the bank's interest.

As well, perhaps this Bill should be expanded to cover other documents besides guarantees. It's often the case that people are asked by the banks to sign documents with respect to loans to their company or business which are

not guarantees. For example, they're being asked to sign agreements to mortgage their personal property to the banks to give security for a loan. In reading the research notes provided with respect to this Bill, I was interested to note that it's been found that in the case of small businesses the banks are often taking security far in excess of the amount of the loans they are issuing. In fact, in 1982 it was found by the Standing Committee on Finance, Trade and Economic Affairs that the amount of collateral pledged on business loans was 279 percent, of which two-thirds was personal collateral. In other words, the banks are covering themselves two and three times over the amount they're actually advancing. It was found that new firms were pledging collateral security over 400 percent of the value of the loans. Since there was the downturn in the economy and some of the banks have lost money, I'm curious to know how many businesses are being asked to sign other things besides personal guarantees as additional security and collateral for the loans they receive.

Perhaps we need to address that issue. Perhaps this Bill doesn't go far enough in that respect. After all, the banks never take a risk. The risk is always with the borrower. It is the borrower who takes the chance that his business won't succeed, not the bank. The banks always take sufficient security to protect themselves and their depositors. As far as I'm concerned, the only time the banks lose is when they are negligent in their lending practices. In almost every case where banks have suffered losses in the last couple of years, you'll find the bank was negligent in the manner in which it lent money. Times were good, things were booming, and they were lending the money at high interest rates. The losses they've suffered have not been the borrowers' responsibility; they've been the bankers' negligence.

I think we need to address the kinds of security the banks are taking, the amount of security they're taking, and the way in which they handcuff small-business people in their ability to finance their operations. That isn't covered by this Bill and, I think, should be included in a Bill of this kind. However, I commend the hon. Member for Calgary McCall for introducing this Bill and opening up the debate. I think it's something that needs to be talked about and certainly something that needs to be looked at. To that extent I commend the member.

MR. MUSGROVE: Mr. Speaker, I would certainly like to congratulate the Member for Calgary McCall for bringing in the debate on the amendment of the Guarantees Acknowledgment Act. The whole question of personal guarantees is very timely. There is no doubt that as the economy began its downturn, Alberta banks were increasingly using personal guarantees for collecting debts. Bank guarantees are extremely complex documents and in many cases are signed without full knowledge of the obligation the person is entering into.

The Guarantees Acknowledgment Act provides a certain amount of protection. Under the Act a notary public must examine the person entering into the obligation to determine whether he is aware of and understands the contents of the guarantee. A certificate is then issued at a cost of \$5. We all know that a notary public signing a document as notary public only has to ask the person who brings the document if he understands what's in the document. He's not obligated to try to explain it to him.

On the surface it may appear that Alberta has gone one step further than other provinces insofar as protection is concerned. However, the provisions under the Act do not necessarily offer any greater protection than is available

elsewhere. A notary public must examine an individual only to determine whether he is aware of the contents of the guarantee and understands it. The notary public is under no obligation to explain the contents of the guarantee to the guarantor. Thus the certificate signed when the guarantor has no real understanding of the document is just as valid as the one when the guarantor is fully aware of the document he has signed.

The intention behind the Act is good, but the experience in the court has been that they've had a lot of difficulties with it. The fact remains that while you must go to a notary public to have this certificate signed, advice as to the legal implications of the document should be sought from a lawyer. From the banker's point of view, the security which can be provided against default on a loan is a vital consideration. However, from the borrower's point of view, the collateral demand may be excessive.

In 1982, Mr. Speaker, the Standing Committee on Finance, Trade and Economic Affairs found the average amount of collateral pledged on business loans was 279 percent, of which two-thirds was personal collateral. New firms were pledging over 400 percent of the value of the loans in collateral.

If the changes proposed in Bill 214 are implemented, the guarantor will be required to appear

before a lawyer who is not acting for the person to whom the obligation is to be incurred.

The lawyer must then be

satisfied by examination of the person entering into the obligation that he fully understands the contents of the guarantee and his obligation under it

before issuing a certificate in the prescribed form. Mr. Speaker, while the amendment might result in a better informed guarantor, the lawyer is still not required by the amendment to give independent legal advice. Therefore, the possibility exists that the lawyer could simply ask the guarantor, the same as a notary public would, "Do you fully understand the contents of the guarantee and your obligations under it?" If the guarantor answers yes, then the lawyer may sign the certificate. The question remains as to whether the amendment obligates the lawyer to explain the contents of the guarantee.

The fee prescribed in the amendment is \$50. In all likelihood lawyers would not sign a certificate for \$5, but there's also a chance they may not sign it for \$50. The question has to be answered: does the fee compensate a lawyer adequately for the type of advice being sought? If there's a chance that the lawyer may be sued, a fee of \$50 may not be high enough.

The Institute of Law Research and Reform is in the process of preparing a report on the Guarantees Acknowledgment Act. Before making a final decision on the amendment proposed, the recommendations of the institute should be examined. It is expected that that report will be released in two or three weeks.

In summary, I agree that we need a change in the Guarantees Acknowledgment Act, but with the Institute of Law Research and Reform doing a study on it, we should probably wait until their study has been completed before we make a decision on this.

Thank you very much, Mr. Speaker.

MR. ALEXANDER: Mr. Speaker, I want to make a few comments on this Bill for a couple of reasons. First off, while I'm very sympathetic with the objective of the amendment, we discussed this amendment with the hon. Member

for Calgary McCall in Economic Affairs and had some difficulties with it. The main difficulty stemmed from the fact that while the Bill had a commendable objective, it did not seem narrowly and specifically enough targeted at its object to be able to achieve it. While I share the frustration of the hon. Member for Calgary McCall at the complexity of bank guarantees, the net which he has thrown out here catches too many fish other than the one he's aiming at.

I have difficulty with the whole problem of understanding obligations. I think hon. members have already outlined that in practical terms. In the real world when you go into a bank, usually in some kind of cold sweat or in a hurry, in order to obtain a loan or to help somebody else obtain a loan and are asked to sign a complex document, you usually want to get the job done knowing broadly speaking what the obligations are going to be. The reality of the fact is that the pressure of obtaining the result over-rides in the short term the problem of what is contained in the document. The problem with which a person is confronted in fully understanding it is one which I think is not properly explained here.

As members have previously said, a notary public is obligated to ask a guarantor if he's aware of the contents of the guarantee and understands it. A lawyer may do exactly the same thing by simply asking the question, "Do you fully understand the guarantee and your obligations under it?" I'm simply suggesting that asking a person whether he fully understands as opposed to understanding the obligations incurred is really not enough to achieve the objective the hon. member wants.

Even if that's possible in the logical sense of the word, I'm not so sure if the educators are correct in saying, "There's no such thing as teaching; there's really only learning." You may have the highest priced and most capable lawyer in the world who may still be incapable of making a client fully aware of his obligations under a guarantee, having fully discharged his duties and charged a fee 10 times what's allowable and still not having achieved the objective. So I have a real problem with the emphasis on fully understanding all the obligations under a guarantee. I don't think there's anything in legislation, regulations, or anything else that can ever assure that such understanding will take place. It's not necessarily unfair to impose that obligation on lawyers, but whatever the terminology might

be, I'm quite sure as I stand here that lawyers would not be able to fulfill the obligation.

I have some sympathy with comments made a little earlier by the Member for Olds-Didsbury, who I think mentioned that if one is frustrated with what's contained in these bank guarantees, it may be a worthwhile exercise to attack the forms, to ask the banks to reduce the complexity, to reduce the dimensions of the collateral required, to reduce the bite on guarantees, to take some of what the member has called the "unconscionable" elements out of the guarantees. Unfortunately, I think the Bill has reversed the onus and concentrated the attack on the poor signatories. It is now going to require the signatories to go to a lawyer, which they don't have to do at the moment, pay a fee of probably \$50, and then jointly accept the obligation to fully understand what's done. I don't think that's a practical solution if we're trying to attack what the member has referred to as the "unconscionable" elements in guarantees.

I might also say that one of the bases on which I objected to the Bill when we first saw it in Economic Affairs was that there are many other guarantees that are much less complex, much simpler, much easier to understand than bank guarantees. In the investment business, for example, we have a fairly simple one-pager that's not very hard to understand. It can be executed by a notary public within the office. It can be done for little or no charge whatever. To force people who are now in a position of signing very simple guarantees to go through this kind of process is really not to attack the problem directly but to attack the people who have to go through the problem.

I have a number of other problems with the amendment to the Bill, with the proposition put forward by the Member for Calgary McCall, many of which I think have already been stated. In view of the time, Mr. Speaker, I request leave to adjourn debate for another day.

MR. SPEAKER: Do the members agree?

HON. MEMBERS: Agreed.

MR. SPEAKER: It is so ordered.

MR. HORSMAN: Mr. Speaker, it is not proposed that the Assembly sit this evening.

[At 5:29 p.m., on motion, the House adjourned to Friday at 10 a.m.]

