LEGISLATIVE ASSEMBLY OF ALBERTA

Title: **Tuesday, June 7, 1988 8:00 p.m.**

Date: 88/06/07

[The House resumed at 8 p.m.]

[Mr. Speaker in the Chair]

head: **GOVERNMENT BILLS AND ORDERS**
(Second Reading)
Bill 22
Labour Relations Code

DR. REID: First of all, Mr. Speaker, if I may apologize for the state of my voice. I think it's probably going to wear out before the end of this process. It has had quite a lot of use for the last 18 months.

AN HON. MEMBER: How are your ears?

DR. REID: Mr. Speaker, in the initial remarks I wish to make on Bill 22, the Labour Relations Code, and in introducing the motion for second reading of Bill 22, I want to deal to some extent in a repetitive manner to some remarks I made last evening in relation to Bill 21, the companion legislation, the Employment Standards Code. This may seem repetitive, but I think it is worth while in view of the nature of the two pieces of legislation. Whereas the Employment Standards Code applies to the vast majority of Alberta employees and employers, the Labour Relations Code applies to perhaps 23 or 24 percent of employees and the corresponding employers. The Labour Relations Code addresses subjects such as mediation, certification, arbitration where necessary, strikes and lockouts, and the operation of the Labour Relations Board.

The basic philosophy is once more, as with Bill 21, laid out in the preamble to Bill 22. As I said yesterday evening, preambles are not common in Alberta legislation. In most cases it is not necessary to establish a basic philosophy, but there are preambles to certain statutes: the Individual's Rights Protection Act, the multiculturalism Act — these two statutes ~ and indeed in the new School Act. The preamble to Bill 22 sets out the philosophy that must be kept in mind when reading every section of the statute as the philosophical statement of the government in relation to the Labour Relations Code. The philosophical statements are:

> . . . that a mutually effective relationship between employees and employers is critical to the capacity of Albertans to prosper in the competitive world-wide . . . economy . . .
>
> . . . that the worth and dignity of all Albertans be recognized . . . through legislation that encourages fair and equitable resolution of matters arising in respect of the terms and conditions of employment;

in this case, in the unionized sector, of course.

That "the employee-employer relationship," if it is going to be what it should be ~ and it is in many cases but not in all ~ it should be "based on a common interest in the success of an entity that both the employer and the employee are associated with and that that is "best recognized through [a concept of] open and honest commuunication." And I would emphasize both adjectives.

Lastly and most important probably in the case of the unionized sector and the Labour Relations Code, there should be "legislation supportive of [the] free collective bargaining" concept, and that this is "an appropriate mechanism through which terms and conditions of employment may be established."

The intent, Mr. Speaker, of Bill 22, the Labour Relations Code, is to provide that legislative framework in a fair, reasonable, and equitable manner for those Albertans that it serves and that it should be to the benefit of the long-term needs of the province as a whole, not only those who work in the unionized sector or the employers of those workers.

Bill 22 supports the principle that I mentioned yesterday evening in relation to the Employment Standards Code, that ongoing direct government involvement in the relationship between employees and employers should be kept to a minimum once the statutes are introduced and the accompanying regulations and the proclamation are given to the statute, which in the case of both the Employment Standards Code and the Labour Relations Code I anticipate will be sometime in the fall of 1988. There's no doubt that employees and their employers are by far the people who are best able to determine the nature of the relationship and the way that relationship works in the particular environment of that given entity and that, therefore, government intervention and involvement should be minimized.

Once more for the record, since we are discussing a different Bill, I would like to briefly mention the process by which we have reached the discussion of this evening. I will just briefly review that it was in the throne speech of June 1986 that a thorough review of labour legislation was made a commitment of this government. That review process has involved a committee with equal representation from organized labour, from management, and from the general public. In view of the concept that not all wisdom in relation to collective bargaining may be found within Alberta or indeed within Canada, as well as considering the legislation in other jurisdictions within Canada, we should look at jurisdictions outside of this country. The committee did, in actual fact, look at what might be called three couplets of other jurisdictions, the first couplet being Great Britain and the United States, since those are the jurisdictions from which most Canadian labour law to this point has been developed, and the concepts of those jurisdictions have been in large part used in Canadian labour law to this point.

In view of remarks that were made by many Albertans in 1985-86 that strikes and lockouts in Alberta should be banned, we looked at the concepts in Australia and New Zealand where legislation since indeed the end of the last century and the beginning of this century has in large part been aimed at banning strikes and lockouts. We also looked at the jurisdictions of Germany and Japan where, although their law may be very different, in actual practice we found that the practice of labour relations in those jurisdictions works very much on a nonconfrontatory, consensus-based pattern. The committee put out an interim report after visiting those other jurisdictions, with quite a lot of information on a nonjudgmental basis and with some questions following at the end of that interim report.

Having given time for Albertans to look at the interim report and since Albertans have known since June that the review was going to be undertaken, the committee then visited many locations in the province of Alberta for open public meetings and also received written briefs. Some of those briefs came only in written form, some were supplementary to oral remarks made by the presenters at the public meetings, and other written briefs were essentially supplemented by the presenters at the public meetings. It was a very broad-based exercise, and input was

received from employers individually, large and small, Alberta-based, nationally based, and internationally based. Input was also received from individual employees, unionized and otherwise. It was also received from unions Alberta-based, nationally based, and internationally based -- from associations of employers, and from associations of unions. In other words, there was a total cross section of the economy and employment within the province of Alberta received by the committee.

[Mr. Musgreave in the Chair]

Subsequent to all of that input, the final report of the committee was put out, a document that was received with interest by Albertans. I forget the exact number, but something like 8,000 or 10,000 of them were distributed around the province. Again, considerable input was received, Mr. Speaker, and that input was considered in the development of draft legislation termed Bill 60. That draft legislation was tabled in the Legislature on June 17, 1987, and the government invited input from everyone who felt they had an interest in it. The Bill was intentionally left over the winter for input. We received some 300 briefs in response to Bill 60, and I myself had over 200 meetings with individual Albertans, groups of Albertans of all types. In other words, the process that I have described which led up to the introduction of Bills 21 and 22, which is under consideration this evening, was probably unprecedented in Alberta for the consideration of new legislation.

Now, it is true, Mr. Speaker, that undoubtedly there are those on the employer side and those on the union side who will have some provisions of Bill 22 to which they will have some objection. That's the very nature of the process of labour relations in the organized sector. On the other hand, it is equally true that since the introduction of the Bill there have been some favourable comments about the basic concept, which is given in the preamble. There has been by and large an almost unanimous acceptance that Alberta should try to get away from this so-called traditional, confrontational approach and that it should try and move over to a concept of co-operation between employees and employers, not just in the unionized sector but throughout the employment relationship.

Bill 22 reflects in very large degree the recommendations of the Labour Legislation Review Committee as modified by the input that we have received since that final report. The end result is, Mr. Speaker, a Bill which represents in a broad form the concept of fairness and equity, allowing for the fact that at times the balance between employer and employee may be upset by those economic changes one way or the other depending on the economic upturns and downturns, which happen in cycles. But in large part the legislation will result in what is sometimes termed a level playing field, although that term is perhaps overused. The legislation has some highlights, but rather than try and list them all, since this is second reading I will perhaps just give some of them.

[Mr. Speaker in the Chair]

The basic control of the unionized relationship in the province through the Labour Relations Board, I think, is clarified, and because it is consolidated now in one part of the statute, it's certainly much more understandable. The general rights and obligations of employees and employers that previously could be found scattered throughout the Labour Relations Act are now all in the one part of the Act dealing with the Labour Relations Board.

As in Bill 21, Mr. Speaker, there is considerable attention paid to the concept of communication and education. There are provisions for advisory councils, for a concept similar to the Round Table in Japan, where indeed that meeting is chaired by the federal minister of labour in Japan and is attended at least once a year by the Prime Minister -- although the recent Prime Minister Nakasone used to attend it on a quarterly basis -- to develop a general understanding of the economic status of the province and the circumstances that apply to the collective bargaining relationship. There is an emphasis on open and honest communication. That should be an ongoing process. It should not be limited to once a year or two years or three years at the bargaining table. There should be an open and honest communication between employer and employees on an ongoing basis, not only when there are problems but so that the employees and the employer on a continuing basis understand each other's concerns and problems. Indeed, it is anticipated that if this type of relationship becomes general in Alberta, as it is in some circumstances already, then the whole relationship between employee, as represented by the union, and the employer, as represented by management, will improve considerably, to the benefit of all concerned, including the rest of Albertans, who are sometimes innocent bystanders in the disputes that have occurred in the province.

The certification process has been clarified and simplified. The requirement for a secret ballot on all certifications will remove the pressures and coercion that have on occasion been used in the past to try and affect the decision of the individual employee. I cannot emphasize enough, Mr. Speaker, that the decision whether or not employees will be represented by a union is one that should be made by those employees with a minimum of duress and coercion by others and that it is a decision that does not lie with the employer nor with the potential union that would represent those employees. It is a decision for those employees and no one else. There is a corresponding provision for the certification provisions to be found in those for revocation of a certificate.

The negotiation process, while it's a superficial examination, may be regarded as a more complex process than in the past. I would emphasize -- after very considerable discussions in the committee that I chaired and within the government caucus, also discussions with others, practitioners on both sides representing both parties -- that the concept that is included in Bill 22 for negotiations is one that is aimed at success. In other words, throughout it is aimed at achieving collective agreements by bargaining with the minimum possibility of strikes or lockouts, which are counterproductive to everybody's benefit. The process of requiring adequate notice, adequate time for negotiations, voluntary involvement. of mediators if they wish, and the requirement for mediation before a cooling-off period which precedes the strike or lockout vote, is all aimed at achieving collective agreements.

The current legislation under the Labour Relations Act was described to me by a labour relations lawyer as not requiring any change as it was a perfectly good set of rules to fight by. Well, if that's the concept that exists within the legal fraternity who are involved in the collective bargaining process as third parties, then perhaps that itself is an indication that there was a need for change in the process.

The provision for votes by the employees at different stages in the process makes sure that the employees are aware of what is at the bargaining table and ensures that they do have the

capability, if the need arises, of getting the chance to vote on either the last offer by the employer or the recommendation package put forward by the mediator, if indeed the mediator does put forward a package of recommendations. There are corresponding provisions, of course, for employer organizations where employers bargain in groups, and there has to be a formal rejection by the employer of the last offer by the union corresponding to the vote by the employees on the last offer by the employer, if it is wished by the appropriate bargaining agent.

In relation to strikes and lockouts, where they may occur, the procedure is somewhat different from that that exists currently. There will have to be a secret ballot vote on all occasions. That is currently the practice of the Labour Relations Board, but it is now a mandate. Once a dispute reaches the stage of a strike or lockout vote, rather than one vote which lasts for a year, as long as a strike or lockout is not called, that vote lasts for 120 days, but there is provision for repeat of the vote on a four-monthly basis if required. Once a strike or lockout is called, then there are no more votes, of course. There is not a vote on whether or not to continue the strike. A strike continues until it is settled by a collective agreement being achieved or until the bargaining rights of one of the parties cease to exist or for two years.

Throughout that time it has been clarified that the employee status of the employees is retained. An employee remains an employee throughout the term of his strike or lockout, and for that period of time the employee retains the priority for the job that he had at the time of the strike or lockout starting or for employment with that employer. In other words, if replacement workers are used by the employer during a strike or lockout, then those replacement employees have no permanent status in priority to the real employee until the end of the strike or lockout That has been made amply clear in the Bill. The end of a strike or lockout means that the employee has to apply for reinstatement within a reasonable time frame of a settlement by a collective agreement or by the loss of bargaining rights, and at the end of two years the employees are to forthwith apply for their jobs in order to retain their employee status.

Also, during a strike or lockout, if one should occur, if there is a benefit which is attached to an insurance premium, then in the event that the union proffers to the employer the premium for that benefit for all the employees, then the employer has to accept that payment, pass it on to the insuring company and thereby retain the insured benefits for the employees, although they may be locked out or on strike.

In relation to the function of the Labour Relations Board, Mr. Speaker, there has been a change there as well, quite a significant change in that repeatedly around the province the committee heard from various parties, employers and unions, that they wished to regain control of the system that they operate. In other words, they wished to do away with intervention of third parties who are neither employers nor unions. In view of that, at the Labour Relations Board we have introduced the concept of an informal stage where a single member of the board, or on occasion three members of the board, may hold an informal type of hearing without the rules of evidence, without prejudice to any subsequent process, where matters of a relatively minor nature may be settled without having to take a lawyer or other consultant in the back pocket to tell the party what to say and when to say it. In other words, again we are aiming at successful settling of disputes between the parties. There is, of course, the more formal hearing such as many people have become accustomed to at the Labour Relations Board, and with those formal hearings there will be a decision of the board rendered. That decision, of course, is appealable to the courts on certain bases, as is the normal process in our democratic system.

Mr. Speaker, I have addressed some general parts of Bill 22 as it has been presented to the Legislature. I would indicate before debate continues that there will be some amendments made to Bill 22, the normal ones where there may be a grammatical error in Bill 22 or some difficulty with the understanding of a given section or subsection. But I would wish to mention two areas where there will be amendments made. The first one that I will mention is in section 160, where the wording can be interpreted that the continuation of a certificate by a union would require that union to apply to the Labour Relations Board. That, I suppose, could be interpreted that if they didn't apply, the certification could die. That is not the intent, and there will be changes introduced at committee stage to address that situation.

In addition, Mr. Speaker, there has been considerable apprehension about the intent of the government in section 81, the section dealing with picketing and with boycotts. Without getting into the details of section 81, the concept is of giving immunity from the normal civil action for those who are directly involved in a dispute to picket at their place of employment and to peacefully try and deter people from entering the worksite or from doing business with the employer. Obviously, that immunity cannot be made too general and, indeed, should not be. On the other hand, it is equally impossible to perceive that the government would intend to apply any restriction on the normal freedoms and rights that go with the common-law concept and the unwritten constitution of the country, never mind the Charter of Rights and Freedoms. There appears to be some misunderstanding of the intent, and for that reason, in relation to boycotts and the normal freedom of individuals to assemble and to demonstrate, we will introduce amendments that will address that particular concern.

Also, Mr. Speaker, there will be distributed a document, a proposed amendment to Bill 22 applying to the construction industry. I had hoped that it would be here from the printer to be distributed as an addendum to Bill 22. What will be distributed is not the actual wording, necessarily, of the amendment that will be introduced to cover the construction industry, but it represents the basis for such an amendment that will be brought in, of course, at committee stage, since it cannot be introduced at this stage of debate.

The amendment will address the construction industry because of the difficulties in that industry. It will retain some elements of Bill 53, which was proclaimed last June. It will address the difficulties with spin-off companies. It will address the processes of negotiations on a sectoral basis and also on a trade-by-trade basis. The concept is that a given union representing a trade will negotiate with an employer's organization, registered or not, for that trade. The concept is that within a given sector of the construction industry negotiations will occur trade by trade, but before a lockout or a strike can occur, there will have to be a vote by all of the employers or all of unions in that sector.

On the employers' side it will require a vote for a lockout by 60 percent of the employers in that sector who vote, and those will have to employ 60 percent of the employees in that sector. On the union side there will be a similar double 60 majority: 60 percent of the unions involved in that sector will have to have a simple majority, and 60 percent of the employees who vote will have to vote in favour of a strike. There are similar provisions for dealing with the ongoing negotiations, but I'm sure that we will address those in considerable detail at committee stage once

the amendment has been introduced.

Thank you.

MR. SPEAKER: Thank you, hon. Minister of Labour. The Chair will have the proposed amendments to Bill 22 distributed to the House. It's indeed in order to have these distributed for the benefit of all members of the House to take into consideration in further debate, even though they will not occur until committee stage.

Leader of the Opposition.

MR. MARTIN: Mr. Speaker, to rise in the debate on Bill 22, the Labour Relations Code. Now, I haven't seen the amendments, but I will allude to parts of section 81 anyhow. But I want to put this in perspective, because I sat and listened to the minister, and the minister talked about fairness and equity. I believe those are the couple of words that he used, and then he got into the jargon: the level playing field. Now, that is rather amusing to talk about a level playing field with what we've got in Bill 22. It is fantasyland, to say the least, or I suppose it depends on whose field you're playing on whether you consider it a level playing field or not I think any fair-minded Albertan, regardless whether they're in the union movement or not would find that Bill 22 is an abysmal failure, and I'm going to come to four reasons in principle.

But let us go back as the minister did, historically. Why did we even bring in Bill 22, the Labour Relations Code, and before that Bill 21? Well, Mr. Speaker, we went along in this province, over the years when times were good, continually with this government bringing in more antilabour legislation, one time after another. This government's idea of fairness and equity is to take rights away from working people, be it they're organized or unorganized. I don't have to go back in a litany of Bills that came into this Legislature in the last 10 years. Bill 41: after they promised that they'd have full collective bargaining rights for provincial employees, the first thing they do is take their rights away. Bill 44: I'll come back to that. We know the aftermath of that, Mr. Speaker. Then Bill 110. Then we found out we didn't need to proclaim it anyhow because, in fact that had already occurred in the construction trades. So deliberately this government's idea of fairness and equity is not a level playing field. It's a playing field like this, with the workers on the bottom end of it, and for this minister to stand up and say that he's looking for fairness and equity -- I think he should have choked on those words when he said it.

Now, why did we even bother? Because this government had gone along, as I said, with Bills 41 and 44. Why did they want to change the laws again, Mr. Speaker? Well, almost everyone in Alberta knows the answer to that. We've had some major labour disputes in this province. We, of course, had the one that was most publicized, Mr. Pocklington's strike. We had that. Of course, we had Suncor. We've had the Zeidler strikes that are still going on and other ones, and more recently we had the strike dealing with the nurses, the union strike that the govenmient likes to call illegal.

But almost all of us knew that there must be some problems with labour laws in this province, and when this government said, as mentioned in the throne speech, that they were going to look into labour laws, people said hurray because we've got to get some labour stability in this province; we've got to get that level playing field, because we can't afford to go on with these vicious labour disputes that were symbolized, I guess, by the Gainers strike.

So what did the minister do first of all? He said, "I've got a great plan," and the minister alluded to it. "Why, we're going to travel all over the world, travel all over the world, Mr. Speaker. We're going to spend half a million dollars of taxpayers' money." As I pointed out in this Legislature, all that information was in the libraries, and we didn't have to waste $500,000 of taxpayers' money. But you know, we sit there, and hope springs eternal. You say: "Well, maybe they'll learn something if they travel around to other parts of the world. Maybe they actually will not waste the $500,000 of taxpayers' money, and they will bring back some fair, progressive labour relations in this province. Maybe they will learn by what's happening in other parts of the world that they travel why they have labour stability in other parts of the world and we don't here. Maybe they'll learn."

Well, Mr. Speaker, we waited and we waited and we waited, but in Bill 60 -- they let it sit there. That was bad enough. We didn't think that was a level playing field, but I didn't think they'd make it worse. They did. I guess they listened to the people that pay the bills for this particular party, because they came back with even a worse document. I say that I think the minister and I would agree on one thing: that we do want labour stability, and if we do have labour stability, it adds to economic opportunities for all of us. But if this minister thinks that you can go through and come back with Bill 22 and that this is going to achieve labour stability, he's sadly mistaken.

Mr. Speaker, I remember back when they brought in Bill 44. I stood in this Legislature with my colleague Mr. Notley at the time, and we predicted what would happen. But they wouldn't listen. Their idea of fairness is to take people's rights away. "Oh, we're having problems with the nurses. Let's take away their collective bargaining rights. Let's take away their right to strike. That'll solve the problem." We predicted -- and you can go back in *Hansard* -- precisely what was happening at that time, because there was evidence. Even in Ontario, where they didn't have the right to strike, they had more strikes. Sure they put more people in jail, and they fined more people. But they didn't get labour stability, and they certainly didn't create the environment for economic opportunity that I'm talking about. But lo and behold, we had to pay the price again for the stupidity of this government, its antilabour laws, as we saw with the nurses earlier on this year.

Now you would think that they would learn, that they would forget about the Peter Pocklingtons and the advice that they gave them and that there were other more moderate people in this party that would understand that this is not the way to achieve labour stability and labour peace, Mr. Speaker. Did they learn anything? Absolutely not. Now, first of all, what were people looking for? What were they looking for in terms of these labour laws to get that level playing field, if I may use the minister's statement? Well, there were a lot of areas, and it's a broad Bill, and I'm not going to go through all of it. But people first of all wanted a stop to the 25-hour lockouts. Did they see anything in there? No. We have more meetings, we have more mediation, but the bottom line is still there.

The spin-off companies: I'll have to take a look here, but I doubt that he's going to do anything seriously about the spin-off companies. There certainly wasn't anything in the original Bill. Obviously, I haven't had a chance to look at the amendments. Then the whole idea of replacement workers. Now the minister says, and I'll come to that, that he's dealt with the replacement workers, and I'll point . . .

AN HON. MEMBER: Right to work.

MR. MARTIN: Yeah, right to work. Let's get that out. That's what the backbenchers believe in, Mr. Speaker.

MR. SPEAKER: Thank you, hon. member. Order in the House. This is a debate through the Chair, thank you. We don't need the other chitchat.

Leader of the Opposition.

MR. MARTIN: Mr. Speaker, I just wanted to make sure that everybody knows how the backbenchers think, so it's in *Hansard.*

Now the point, Mr. Speaker -- even the Treasurer's blushing over that one. The point that I want to make is that these are major things that people were looking for. There were all sorts of other problems dealing with how you organize and all the rest of it, but those are the three things that were highlighted by the major strikes that we had. We still have the case, in the Lesser Slave Lake in Zeidler with IWA, where they've been on strike for over two years. But because a company deliberately can bring in a whole new group of workers, there's unfairness there. Did they deal with it? Absolutely not, but that didn't surprise me. You know, I'm such a naive person I always look for the best and think the best is going to come, but I didn't really expect it.

But what I didn't expect, Mr. Speaker, is that I didn't think it possible -- I did not think it possible -- that they could make these laws even more regressive and more unfair and less of a level playing field, if I can use the minister's jargon. Because this whole Bill is riddled with unfairness. For the minister, as I said, to say that this Bill brings in fairness and equity is the biggest bunch of nonsense I've heard for a long time, and fair-minded Albertans right across this province are well aware of it.

Now, Mr. Speaker, we can go through, and the minister's going to hear a lot about positive changes that we want to make the next time. As my colleague said, I hope his ears are working because he's going to hear a lot about positive changes that would make this a fair Bill. But in the meantime, while we're dealing with the principle of the Bill, I think there are four areas that I would quickly like to go into, four areas that to me sum up the total unfairness in this Bill and that, because we're dealing with the principle of it, I think it shows precisely what this government had in mind. Their intent was not to create a fair Bill; it was to bring in a Bill that their friends who pay the bills, like Pocklington, could be proud of. That's the reality of it.

Now, Mr, Speaker, the first area that I want to just briefly talk about -- and I alluded to this in question period some weeks ago -- has to do with what I consider the Americanization of certification, almost the Americanization of our laws, but specifically in the certification process. Now, I don't know why we're moving towards the American model. It may be that we want to get our laws the same as the right to work, as the backbencher talks about, so we can compete with Alabama in the Mulroney trade deal. Certainly this is a step in that direction. For those people that don't know what I'm talking about, I'm talking about the area that's almost unprecedented in Canada. Now, this is minor in appearance, but I say to you that this change breaks with the Canadian industrial relations tradition. I'm talking about certification.

If Bill 22 is adopted, even when a trade union is able to sign up 100 percent -- the minister will say it only has to be 40 percent, but that's not the point Even when a trade union is able to sign up 100 percent of a company's employees for membership, it will then, even after doing that have to win a secret ballot vote by 50 percent plus one before it can obtain certification. Now, I say to the minister, this new step added to the process of certification is not simply a minor hurdle. If we can look at what's happening in the United States where the law requires it more than half of the newly created unions fail to win certification elections. In fact only 49.7 percent won their elections in 1984. Before they had this extra hurdle, back in the '40s and '50s, it was 70 to 80 percent Now it's down to 47.9 percent, even after you have the union.

Now, you say, "Well, boy, this is just an election. Isn't this fair?" Well, the employees do sign up for membership, but when elections are called, employers pressure their employees intensively and often prevent the union from being certified. As a result organizing workers has been much more difficult and American unions have now come to represent less than 20 percent of the labour force, compared to 39 percent in Canada and about 30 percent in Alberta. Now, in principle there's nothing wrong with elections. But what has developed -- this is one of the fastest growing growth industries in the United States -- is a whole group of consultants, lawyers, if you like, all sorts of people whose prime goal is union-busting. And they're good at it They harass employees: they phone them; they tell them they're not going to have their jobs. And what do you expect from people then? But this, again, is the direction that we're going, borrowed strictly from the Americans on that particular thing, and it's done for one reason only -- one reason only: to limit the growth of the union movement in this province. Make no mistake about that. Call that a level playing field.

Now, Mr. Speaker, the other area -- and I've alluded to it. The second area that I basically want to get into quickly is what I call the Bill 44 aftermath. Well, as I said, we predicted this, my colleague and I. It's a fundamental human right that people should understand. You can take people's rights away by passing all sorts of bad laws -- bad, unfair, unjust laws. But eventually they will react. History proves it and you can look at all the cases where it's done. People will fight back. Now, this government thought that the Albertans would accept everything they gave them. But they've found out that there was a group of nurses, who were mainly women, who weren't going to take it any longer. So they went out on a so-called, by this government illegal strike. Because there's no other way that they could show their frustration with what was happening.

So it didn't work taking a lot of people's rights away before. It created more havoc. What surprised the government was that the majority of the people supported the nurses. That surprised them. They thought if you just make it against the law, gee, then everybody will say, "Well, you're breaking the law; therefore, it's wrong." They found out differently, Mr. Speaker. But I would have thought that even this right-wing government would have learned from that that it doesn't work. What did they do, though? No, no. They come back -- Bill 44 on the so-called illegal strike. Now, instead of even having the courts deal with it this little cabinet here, this cabinet all the masterminds of this government can sit behind closed doors and decertify a union, not even dealing with the courts.

Now, Mr. Speaker, even if you had the wisdom of Solomon - and I've never accused this front bench of having that. That's almost absolute power, and it's ridiculous. You think about this. You think about this. This government can now pass any law against any union it wants. They could virtually say nobody can go on strike. At some point down the line, if some of these

backbenchers take over, that's what they'd do: declare that illegal and then if a group of people reacted against them, then the cabinet, behind closed doors, decertifies the union. You call that fairness? What nonsense. What absolute nonsense. Instead of giving people their full collective bargaining rights and following even what the United Nations says, the International Labour Organisation, again they go the opposite way and miss the boat and, I say, in the long run will hurt Alberta's economy as a result of it.

Now, I haven't had a chance to look at the amendments, Mr. Speaker, in the third area that I wanted to talk about, section 81, what I called at the time in question period the Peter Pocklington amendment. Now the reason I said that: if you had section 81, the Gainers strike would still be going on. Because one of the reasons it was successful was they were able to have support picketing, they were able to have boycotts, which is true in any free society. Now the minister says maybe they just worded it wrong. Maybe those poor lawyers that they hired just didn't quite get it right. Well, that could well be, because we found it rather amazing even for this government. Because section 81, as it now stands -- and I will be very interested in the amendments -- the Labour minister's new Labour Relations Code seeks to prohibit anyone who doesn't have a direct interest in a labour relations dispute from picketing in support of the workers involved in that dispute or even mounting a boycott.

Now, Mr. Speaker, it's an absolutely perfect formula for making criminals out of a broad range of average Albertans, including priests, students, grocers, biochemists, grandmothers, farmers: all of whom were on the Gainers line or building the boycott in 1986, for whatever reason, maybe moved to say that fairness and justice demand that they picket or boycott. That's what this law is doing: making all those people potential criminals, just as it did with our nurses. What kind of logic would bring in something like this? But we say to you that this is such a draconian measure, without precedent north of Mexico on this continent and unknown to any jurisdiction of which I'm aware among the western democracies. I hope that the minister -- I'm looking forward to this one amendment -- finally realizes from question period, after we grilled him for a week about it, that it affects liberties that people take for granted in a free and democratic society, such as the freedom of association and the freedom of expression. People I've talked to, all fair-minded people, understand this -- not just trade unions -- that these are fundamental freedoms in our society, and they can't understand why this government was resorting to these draconian measures.

My own guess, without seeing the amendment, is that finally somebody got through to these thick skulls that they were probably in violation of the Charter of Rights and that they're going to have to bring this in or else they'd have to use the notwithstanding clause. Because, Mr. Speaker, we checked around. We found this Bill be to unusual, to say the least, so we checked around and phoned different labour experts all over North America, not only in Canada but in the United States. Here are some quotes you might find interesting about this Bill. First quote:

> Never seen anything like it, certainly not in Canada. Both provisions seem unconstitutional.

Ethan Poskanzer, Sack, Charney, Goldblatt & Mitchell, labour lawyers. Then:

> No such thing in the U.S. Would likely outlaw all sympathetic activity other than by members of the locals on strike.

Professor Benjamin Aaron, Faculty of Law, UCLA.

> Never heard of such a thing in the United States. Very sweeping type of legislation that would certainly be contrary to the First Amendment.

Professor Ted St. Antoine, Faculty of Law, University of Michigan.

> A very extreme proposal . . . Beyond belief . . . Never heard of anything that leads me to believe such a thing exists in Europe.

Professor Clyde Summers, Faculty of Law, University of Pennsylvania. And finally:

> Very far reaching. Appears to go further than any legislation in North America. Would render any labour dispute boycotts illegal.

From the United Steelworkers of America in Toronto.

Now again, I hope that this has been done, but I just want to remind this government -- because I don't trust them, Mr. Speaker. And I want to make my comments here that section 2 of the Charter, labeled Fundamental Freedoms, reads in part as follows -- and this is why I believe this is unconstitutional and maybe the government's realized this: "Everyone has the following fundamental freedoms." Those fundamental freedoms are:

> freedom of . . . expression, including freedom of . . . media of communication,
>
> freedom of peaceful assembly; and
>
> freedom of association.

Clearly, this section goes far beyond that. If this government doesn't change, it will end up in the courts and probably be changed anyhow.

The other area, the fourth area that I just briefly wanted to comment on -- and we'll see what happens with section 81. But the other area has to do with replacement workers, because the minister said, gee, what a swell fellow I am, fair minded, level playing field, equity -- got all the words in there. He says, "Well, we will allow replacement workers to have their jobs." Nobody ever thought that was ever in doubt before the Gainers situation. But, Mr. Speaker, I must remind him that you have to get a settlement. You have to get a settlement to get back to work. Well, the minister shakes his head. I would just say what section 74(2) says, and I quote:

> . . . no strike or lockout vote may be taken with respect to a dispute after the expiry of 2 years from the end of the cooling-off period . . .
>
> (3) If a strike or lockout vote is prohibited under subsection (2), the dispute shall be deemed to no longer exist.

Just presto, boom; it's gone. What about Zeidler? It's over then. They've been out for over two years. What does that mean then? It means there is no protection if you have an employer like Zeidler that doesn't want to negotiate, refuses to negotiate, brings in busloads of replacement workers, and they last for two years. We had it happen in Brooks in southern Alberta. Presto: they no longer have jobs and no longer have any security.

Now that's unbelievable. That's again this government's example of fairness? What's really happened is: presto, management has won and the so-called replacement workers have won and the workers have lost That's not unusual with these strikes. I've just pointed out a couple. Because of our labour laws you're going to have more and more of this especially with the poor economy. I just don't understand this. To say that replacement workers don't lose their jobs -- it's only if you get a settlement, and that's a very big point, Mr. Minister.

Let me just say to you, in conclusion, talking about the principle of this Bill. Bill 22 would allow the unscrupulous -- and there are not many of them, but there are some. But those employers like the Pocklingtons of the world that really don't care about their employees: they win under this Bill, Mr. Speaker.

They've won everything they want under this Bill. Now, let me just say this to this government -- and I must remind them again, because if you don't want to listen, I hope they're going to pay a political price for it. I know they will; they should have learned after the last election what's happening in the cities. But I must remind this government: you think that you can continue to take people's rights away and pass any law, how bad, unjust unfair, rotten, that you want. And if you think that's going to lead to labour stability in this province, you're absolutely dreaming in technicolour. Again, I say to them: why don't they learn? Why don't they learn? The best example of that Mr. Speaker, as I already pointed out, was Bill 44.

Now, I know that looking around, for the time being, that you still have the votes in this House. You can maybe win this little skirmish here if you don't use common sense, but you may lose the bigger battle. But most importantly, Mr. Speaker, regardless of who sits over there or who sits here, you're not doing a favour to average Albertans, because you're not going to get that labour stability. Sure, you'll lower wages, because the unorganized will be affected as the organized lose their rights; it always affects the unorganized too. You'll get the wages down, and maybe you'll be able to compete with Korea or whatever. But any smart businessperson, the first thing they ask for -- and I've talked to people from Hong Kong about this who are looking to invest -- is labour stability. They're prepared to pay a little more for wages, they're prepared to pay for a social program, but above all what they want is labour stability. Now, this is a lesson that seems to escape this government Mr. Speaker, because this will not -- and I predict it here and now -- lead to labour stability. It's going to make things much worse in this province, and unfortunately it's not just this government that suffers, but we all suffer, all Albertans, when we get this unfairness built into the system.

So, Mr. Speaker, I just say to you that you can have all the people -- you can fine people, you can throw them in jail, you can do this or that, but if that's what you want that's what you'll get If you're serious that you want labour stability and you want to compete in the international market do it the smart way. Do it the way other countries are doing it that are far ahead of us in labour relations. Look to them as models, not Alabama or wherever you look, Mr. Speaker.

I just conclude by saying to this government that if this isn't changed and this government isn't changed and this goes on in the next 10 years, we're all going to pay the price for this Bill, as I predicted in Bill 44, and I'll make that prediction again today, Mr. Speaker. It's a bad, unfair, unjust Bill, and I intend on this side of the House to do everything we can to wake this government up. I'm encouraged that there are some amendments; we'll look at them. But the whole Bill, frankly, should be thrown out, thrown out and started again. We deserve better.

I just got carried away and remembered that I have a job to do here, Mr. Speaker. To try to save this government from making another big mistake, I just happened to have brought along some amendments. I'd like to give this to the page, Mr. Speaker.

MR. SPEAKER: Singular or plural? One amendment?

MR. MARTIN: One amendment Mr. Speaker. I'll read it quickly. I move that we strike out all the words after "that" and substitute the following:

> this Assembly decline to give a second reading to Bill 22, the Labour Relations Code, because the House believes the Bill should be consonant in all its particulars with the provisions of the Canadian Charter of Rights and Freedoms.

Mr. Speaker, as I've pointed out already in my discussion, I don't believe that it does this.

MR. SPEAKER: With respect to the reasoned amendment it appears to be in order, but the discussion will be focused with regard to the words of the amendment not the total Bill.

MS BARRETT: Thank you. I'm pleased to be the first Member of the Legislative Assembly to stand in support of the amendment as sponsored by the Leader of the Official Opposition. I wonder if you'll agree for one moment that I introduce two people who are sitting in the public gallery watching proceedings tonight. They are Brent Gawne of . . .

MR. SPEAKER: No, hon. member. Might we revert briefly to Introduction of Special Guests?

HON. MEMBERS: Agreed.

MR. SPEAKER: Opposed? Carried.
Edmonton-Highlands.

head: INTRODUCTION OF SPECIAL GUESTS

MS BARRETT: Thank you, Mr. Speaker. I'll do this quickly.

The two people who are in the public gallery watching the proceedings tonight during second reading of Bill 22 are two lawyers who have submitted a brief to the Labour minister outlining their concerns and recommendations with respect to this bill. They are Brent Gawne of Gawne & Associates and Peter Engelmann of Chivers & Greckol, both widely recognized labour firms in the city of Edmonton. I'd ask them to rise and receive the traditional welcome of the Assembly.

head: GOVERNMENT BILLS AND ORDERS (Second Reading)

Bill 22
Labour Relations Code
(continued)

MS BARRETT: Mr. Speaker, in offering my support to the amendment tonight I acknowledge the important contributions of those two people and many like them in Alberta who have similarly expressed concern that particularly section 81 of Bill 22 is in contradiction to the intention, spirit and letter of the Canadian Constitution, schedule B, the Charter of Rights and Freedoms. The reason we can't agree with this Bill until it has been amended or unless it is amended is because we, the Official Opposition New Democrats, are utterly convinced that in fact, the provisions of that section do violate the Charter of Rights and Freedoms.

Now, Mr. Speaker, the Official Opposition leader has outUned some of the reasons one would want to exercise caution in any event on proceeding with this Bill. I'd like to draw attention to the fact that where one contravenes one's own Constitution without even testing it one invites danger of the sort we can see today, June 7, 1988, on the streets of South Africa, a country that is now gripped by a general strike because they do not have policies and laws that are in conformity with fundamental freedoms and rights that all human beings should enjoy. Is that

what the minister wants to court right here in Alberta? Remember, Mr. Speaker, we have not been able to find any labour legislation on this continent or elsewhere in the industrialized world that takes away on such a sweeping basis the right of ordinary people participating on a day-by-day basis in a democracy. [interjections]

It may be that the government members who are uttering comments here and there do not believe how serious this problem can be. But I ask those members: what was the point of going through that entire protracted exercise to so-called bring home the Constitution and draft a Charter of Rights and Freedoms for the entire country if it was our intention or is now our intention to violate the first two sections of that Charter of Rights? Why waste our time, Mr. Speaker? I don't think parliamentarians and legislators from coast to coast had it in mind to go out and deliberately violate the spirit and the letter of the Constitution at that time, but I believe it is clear now that that is exactly what has happened. Surely those quotes -- and I'll read them again. Let me just speak with section 1:

> The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Now, in his comments, Mr. Speaker, the minister didn't even talk about the section that we believe violates the Charter of Rights and Freedoms. But even if he were to attempt to, could he argue that one strike which paralyzed 66th Street in Edmonton for a summer is enough reason to take away the fundamental rights of 2.5 million citizens of Canada just because we happen to be in the jurisdictional boundary of Alberta? Is it the case that offending a major contributor to the governing party is considered more important than the rights of 2.5 million Albertans? If that's the reason, then let it be stated. Because if that's the reason, then it can be even more concisely argued that that violates section 1 of the Charter, which says let those laws demonstrably justify themselves in a free and democratic society.

[Mr. Musgreave in the Chair]

Are there other instances in which the Alberta government has had to ponder a massive and powerful and effective boycott of the products of an employer who acted against the best interests not only of his employees but against the best interests of all of those Albertans who are in the work force whether they be employees or employers? Were there more than that one instance, Mr. Speaker? I think that is precisely what has prompted this part of the Bill and precisely what has prompted this government to say, "To heck with the Constitution, to heck with the Charter, and to heck with your basic rights, Albertans." I argue back that the removal of the Constitutional rights of Canadians is such a serious matter that under almost no circumstances should it even be contemplated.

I'd like to beg your indulgence, Mr. Speaker, to relate one small illustration of my personal experience in such a difficult matter. When I lived in the United Kingdom, I was involved in a massive debate with the students' union at the University of Glasgow, the issue being that the National Front -- a group of outright Nazis, fascists -- wanted to conduct a demonstration somehow conveniently on the same day the students' union was going to conduct a demonstration and right across the street from us. There was no doubt that the National Front intended to provoke a fight, a physical fight if possible, with the students. And we had a tough decision to make. Do we go to the police and ask them not to issue a permit for those people to be across the street from us, or do we acknowledge that they have the right to do that and we'll just hope the power of persuasion is going to win and they will not be able to provoke us into a fight? A tough decision. It took weeks of debate, and I flipped on the issue. First, I didn't want those people within 20 miles of me, but I had to agree that our ability to hold up our democratic rights had to come first and there were other techniques we could use if we had to to prevent violence from erupting.

The same point needs to be made in this instance. If it is the government's contention that only a sledgehammer will take care of this fly, then let the government demonstrate that it has no alternative but to contravene the spirit and the letter of the Charter of Rights. And I believe we are in a game of chicken on this issue. I believe the government is hoping, and particularly the sponsor of this Bill is hoping, that this crucial matter will escape the attention of the public by the time it is passed and they'll be safe and home free. Not a chance, Mr. Speaker.

The argument was made before that Bill 44, which was bad enough, would end up backfiring on the sponsors of that Bill. It was argued then that that Bill was unconstitutional. That argument failed right here on the floor of this Assembly. I watched it happen day after day. But it failed because the Conservative majority in the House refused to acknowledge it.

Let them be so certain this time, Mr. Speaker. Let them tell us why it is that we have to have section 81 in this Bill and how it is that it does not offend the governing law of the land, the supreme law of the land, the law against which all other laws are tested, like it or not. And I say that in the context of a Court of Appeal ruling from yesterday which I didn't particularly like. But like it or not, that's the law of the land. If you want the Constitution, then you live by the court interpretations thereof, and if you don't want it, then say so. Go on the record saying, "I don't want a Canadian Constitution and I don't want a Charter of Rights." I defy any member in the Assembly to get up and say that.

Now, Mr. Speaker, there's another part of the Constitution Act that I believe is violated. It's section 2 under Fundamental Freedoms:

> Everyone has the following fundamental freedoms:
>
> (a) freedom of conscience and religion;
>
> (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication.

Since when is it a matter of political expediency to override that fundamental freedom which says you can go around and argue explicitly that facts of history did not occur and that certain identifiable minorities are open season for target but you can't tell your friend that you don't like the practice of an employer under circumstance of striker lockout and that you don't think your friend should buy those products until those circumstances are cleared up? Since when does that conform to any logic, Mr. Speaker? None that I have ever heard of, I can tell you. And then I ask you: since when is it right to legitimize making wrong going to a picket line and supporting people who might not be direct associates of yours, who might not share any union affiliation with you or not with you, and tell them that you agree with the position they have taken in the bargaining process and walk with them? Since when? Surely, Mr. Speaker, you can see I am making a case here that will tell you how volatile situations will get if this government proceeds with this Bill, including section 81.

Now, I had the benefit of being seated while the hon. Leader

of the Opposition spoke on the principle of Bill 22, and I was therefore able to have a quick look at the proposed amendments the Minister of Labour tabled at the conclusion of his comments, Mr. Speaker. I note immediately there is no reference whatsoever to section 81 of this Bill. There is no notion sponsored by the government that it will take out the offending part of this legislation. And now that the minister is here, I want to tell him that I think and the New Democrat caucus thinks Albertans want him to stand up and be absolutely clear, allowing no bafflegab to occur, as to why it is that Albertans' fundamental rights and freedoms should be eroded to satisfy the tiny wounds suffered by one of the governing party's political buddies and major contributors, and see if Albertans are prepared to accept that. I'll bet you all the money I've got, and I'd bet you all the money in the world if I commanded it, that Albertans under no circumstances will accept the provisions of this Bill once they are aware of the provisions.

Albertans agree that we should be protected by a supreme law, just as Canadians from coast to coast do. That's why they agreed to the process of repatriating the Constitution and the drafting and the passing of the Charter of Rights and Freedoms. I think, given the years, decades and decades, of political footballing that went on with that constitutional issue, Canadians got tired of that and decided, "Let's settle it once and for all," and Canadians did. I don't think they want to have to start reopening that fight one more time to satisfy the interests of one employer who's mad because public sympathy wasn't with him during the summer of 1986. To that person I say too bad; you're either in the game of business or you're not, and if you don't like the rules, then don't be in the game. It's the same right here in this Assembly, Mr. Speaker. If you don't like debate, then stay out. If you don't like listening to Bills and motions and estimates, then don't be here. The same goes for when you're in business, and I know because I've been in business: you accept the terms the way they are. To go around looking for somebody to run interference on your behalf by way of changing the rules and asking -- or even condoning, because I don't know that Pocklington has asked for this Bill. But even if he condones this Bill, knowing that it violates the largest law of this land, I think that is absolutely wrong. No member of the Assembly should acquiesce to that single employer or that single instance.

I didn't see the minister coming in and charging up with a Bill that would violate the Charter of Rights and Freedoms or any other fundamental rights Canadians enjoy as a result of the Constitution in order to accommodate the labour union interests that resulted from that strike or that were in question in that strike, or any other lockout or strike I can think of in the last 15 years. No, sir, I haven't seen this minister, I didn't see that minister, and I didn't see his predecessor run in with legislation that would satisfy the concerns of a party that got burnt in a strike or lockout when the party happened to be the labour union side. I think these people would be well advised to remember their own history in this respect prior to bulldozing their way through the basic rights of every Albertan.

Let me ask you something else, Mr. Speaker. If they're willing to do this, how many more rights are they willing to override? Did you ever think about that? I'm not a psychologist, but I understand the psychology of experience is that once you've done it, it's easy to do again and again. I worry about that. I can tell you of a certain military dictator in Chile that's gotten real high year after year by continually . . .

MR. ACTING DEPUTY SPEAKER: Order, hon. member. I don't think we have to go to Chile. We're dealing with the amendment on second reading of Bill 22.

MS BARRETT: Mr. Speaker, I'm just giving you a wonderful illustration of how it is that you can become addicted to overriding people's individual and constitutionally assured powers. If you want an alternative, if Chile gets you angry and Pinochet gets you angry, how about the Soviet Union? There's a constitutional government . . .

MR. ACTING DEPUTY SPEAKER: Hon. member, I'm not concerned about your geography lesson. I just want you to deal with the amendment that's here before us.

MS BARRETT: Mr. Speaker, my amendment says that . . I'm not on my amendment yet; I'm on the Official Opposition leader's amendment. I will get to mine, I assure you. But on the Official Opposition leader's amendment, it says:

> . . . the House believes the Bill should be consonant in all its particulars with the provisions of the Canadian Charter of Rights and Freedoms.

I maintain my right to give you any number of illustrations as to how easy it is for this government to ride over those rights as guaranteed in the Constitution, as it has been in other parts of the world, including Chile, including South Africa, and including the Soviet Union.

[Mr. Speaker in the Chair]

The government . . .

MR. SPEAKER: Thank you, hon. member. The Chair went out to obtain a copy of the Constitution Act so we could indeed narrow the focus to what the subamendment does say. So a certain number of examples have been accepted, but others will not be accepted.

MS BARRETT: Well, Mr. Speaker, I was referring again . . . I have only spoken for perhaps a total of 30 seconds on other countries in the world which say they have constitutions and which continually override them. Now, my point -- and if you want me to proceed from a logical perspective right from the beginning, I'd be glad to repeat the entire argument for you --my point is that . . .

MR. SPEAKER: Thank you, hon. member. The Chair was listening outside the Chamber all the way through.

MS BARRETT: Oh. Well, great. Then the Speaker understands my point is that if you are willing to violate, as I believe is being done in this instance, the Charter of Rights and Freedoms and the Constitution of Canada in one instance, how easy will it be for the government to do it in other instances? I ask government members -- all of them, cabinet and non-Executive Council members -- to consider that it's happened before. Where you take away one right, it's so easy to go on and take away another right.

MR. SPEAKER: That's hypothetical.

MS BARRETT: It's not a hypothetical argument Mr. Speaker. I'm asking them to take into context [interjection] -- that's right,

I didn't use the word "if" -- of history and the importance of all members of this Assembly in charting the course for the future of our province what is possible if they proceed with a Bill I and the New Democrats firmly believe is in violation of the Charter of Rights and Freedoms. I can also predict what will happen if they do this, even though it is clearly in violation. What will happen is that people will not uphold this law. They will live their lives on the basis of the Constitution and not give legitimacy to this Bill when they are put to the test. And I think that's a shame, because that would have the effect of making them criminals for using their own good judgment. Surely, if ever I've seen a government that doesn't recognize the collectivity of society and emphasizes only the rights of the individual in a society, it is this one. Surely it is in its own best interests to make sure that no individual is forced to make that decision because of a bad law, especially a law which is an offence to the ruling law of the land.

So although I support every word and the entire intent of the opposition leader's amendment to this dreadful Bill, Mr. Speaker, I do propose the moving of a subamendment. I think that it being initialed, you'll see . . . I'll pass this out to the page, whom I'll ask to distribute it to every member, and upon your acknowledgment I'll read it into the record.

MR. SPEAKER: The Chair will allow the subamendment to proceed, but the problem the Chair is having is the matter with respect to reasoned amendments and applying conditions. So further research will take place with regard to *Erskine May*. But in the meantime, the member may proceed.

MS BARRETT: Thank you, Mr. Speaker. I'd like to read into the record the subamendment I'm sponsoring. At the end of Mr. Martin's amendment, it would say:

> ;and, this Assembly declare it will not give a second reading to this Bill until such time as it is assured that in the opinion of the Alberta Court of Appeal, none of the Bill's provisions contravene the Charter.

Now, Mr. Speaker, I've basically made the arguments about why it is that I believe the Bill does contravene the Charter. I'd like to briefly state why I think it's so important that this Bill be turned over for a judicial decision. The reason is that we in Canada have agreed to, I suppose, a bicameral process for law. We have provincial Legislatures and the federal Parliament, we have the Senate, and we have the judiciary. All three bodies -- or four if you want to separate province from national -- work together in determining law, in determining the validity of a law as proposed and determining whether or not it serves the best interests of the people affected by law. I believe that this has not been sufficiently tested under the circumstances.

I refer you to a decision from the Alberta Court of Appeal yesterday, the results of which I find not very settling, Mr. Speaker. But I live with it because that's the way the system works.

MR. SPEAKER: Hon. member, there's a difficulty here that a Bill is not a Bill until it has been passed. The example the member is now citing was with respect to after an action had taken place, not prior to the passage of a Bill in the Assembly. So there's some difficulty in this argument Sorry.

MS BARRETT: Certainly, Mr. Speaker. I have no problem in developing the argument in a way that makes it clear I am speaking to the subamendment I am arguing that the Legislative Assembly of Alberta or Saskatchewan or P.E.I. or any other place does not make laws in a vacuum. It makes laws which can be referred to the judiciary for determination as to whether or not it is in conformity with the governing law of the country and as to whether or not a violation is taking place therein. I am arguing that that part of the decision-making process is every bit as legitimate as this part right here, Mr. Speaker, and I'd be very surprised if the Solicitor General stood up and said anything different, he being a lawyer. I'd be very surprised if any of the other lawyers in the Assembly stood up and said anything different or fought this subamendment on that basis, because it is a system that Canadians have decided constitutes an important check and balance against distortions as they may occur in a Legislative Assembly, whether by design or happenstance.

Now, Mr. Speaker, I have said that I don't believe this Bill conforms to the Charter of Rights and Freedoms, but I challenge the government to test it. It is a very simple procedure. The government has the right through the Attorney General's department to refer any legislation it wants, whether it's passed or not, to the judiciary for a question to be settled.

Mr. Speaker, I've been watching you gesticulating for five minutes, and I wonder if there's a problem in the development of my . . .

MR. SPEAKER: Thank you, hon. member. There's a legal nicety here. The hon. member persists in saying that you refer a Bill to the judiciary for review before it comes to the Legislature. The Chair is indeed shaking its head because the Chair's understanding is that a reference may be made given a certain set of questions or propositions which might be addressed to the judiciary for comment, but it is inappropriate to say that a Bill, in its totality, can be addressed for a legal reference. So it's a matter of a reference with regard to certain specific questions or issues rather than a whole Bill such as we've been talking about this evening. That's part of the difficulty with this subamendment.

MS BARRETT: Mr. Speaker, I would like . . .

MR. SPEAKER: Well, thank you for "Mr. Speaker," but let's just carry on.

MS BARRETT: I would like the citation that tells the Attorney General's department that it cannot refer an entire Bill for a decision. I have read the Legislative Assembly Act and I have read the Interpretation Act, Mr. Speaker, and I have never seen such a citation. And in any event, if you want me to be more precise, I'd be glad to be more precise. I'm talking about referring section 81, that odious component of the Bill that seems to satisfy the interests of one person at the expense of . . .

DR. REID: Mr. Speaker, on a point of order. In my initial remarks, I made it perfectly clear that an amendment would be brought in in relation to section 81, clarifying that it will not intrude upon the traditional rights and freedoms nor those in the Charter of Rights and Freedoms of Canadians. That point has already been made. There is no need for the present legislation to be referred to any court.

MS BARRETT: Mr. Speaker . . . [interjection]

MR. SPEAKER: [Inaudible] for clarification. No. Back to Edmonton-Highlands. That's all we're going to have on this

point.

MS BARRETT: In the first instance, Mr. Speaker, that is not a point of order, and in the second instance, it is not a reality with which any member of this Assembly can reasonably deal until it is introduced as an amendment either by that minister or by the Government House Leader or somebody from that caucus, which is foolishly still apparently under the view that it can get away with this Bill even now and sell it to the Alberta public and tell the Alberta public and tell the Assembly that we'd better just wait until he introduces his amendment Mr. Speaker, if that . . .

MR. SPEAKER: Thank you, hon. member. There indeed was not a point of order, but it was a matter of some useful information delivered to the House. Usually in parliamentary circles when the minister of the Crown or any other member of the House stands up and gives that verbal undertaking, other members accept it in good faith, rather than going into . . .

AN HON. MEMBER: We want to read it.

MR. SPEAKER: Well, that is the practice in the parliamentary tradition rather than on the hustings.

Hon. Member for Edmonton-Highlands, speaking to the subamendment. Thank you.

MS BARRETT: Yes, Mr. Speaker, I agree it would be nice if I could take that reference on the surface of his comments, but without the amendment I cannot; I've heard his government asking for faith under Bill 44 as well. So I reserve my right to argue that section 81 of this Bill is offensive. As it is written, it violates -- and as I can only reasonably argue now without a further amendment in front of me -- the spirit and the letter of the Charter of Rights and therefore should be referred to the Alberta Court of Appeal for a decision which, in its powers, it can make, and which, in the powers of the Alberta government, can be referred to it There is noting deficient about that Court of Appeal. If we can refer other decisions, other requests, we can refer this one. Nothing in the Alberta Legislature prevents us from asking. And that is precisely what I am arguing.

If the minister wants to argue that his amendment will satisfy my concerns, I challenge the minister to introduce the amendment right now.

DR. REID: Mr. Speaker, on a point of order.

MR. SPEAKER: This is speaking . . . A point of order.

DR. REID: On a point of order. This is not the stage of the debate on a Bill nor its passage through the Legislature for the introduction of amendments. The document that was tabled today in the Legislature is a proposed amendment so that the hon. members would have the knowledge of the general intention of the government in relation to the construction industry while they were indulging in general debate at second reading of the Bill.

MS BARRETT: On the point of order, Mr. Speaker.

MR. SPEAKER: On this particular point of order, Edmonton-Highlands.

MS BARRETT: Yes, Mr. Speaker. I would argue that the minister is certainly correct inasmuch as constructive amendments are not ordinarily pursued in second reading of a Bill. He certainly has the ability to do that which he did with this tome of about 30 pages, and that is: give us his written intention, word by word, of that which he says he Will pursue with as an amendment. Let him do that.

MR. SPEAKER: Thank you. Well, the hon. minister and the Member for Edmonton-Highlands are in agreement: that indeed amendments cannot be made at this stage of the Bill's progress by the sponsor of the Bill, in this case the Minister of Labour. Perhaps the hon. minister would take under advisement the recent suggestion by the Member for Edmonton-Highlands.

Speaking to the very limited profile of the subamendment the Chair is prepared to recognize other members, bearing in mind there will not be a discussion of clauses, because we are on second reading.

St Albert. [interjection] St Albert.

MR. STRONG: Thank you, Mr. Speaker. I knew I'd get a turn; I just had to wait.

Mr. Speaker, it's a pleasure for me this evening to rise in the Legislative Assembly and speak to the subamendment proposed by the Member for Edmonton-Highlands, that subamendment being:

By adding at the end of [Mr. Martin's amendment]:

> ; and this Assembly declare it will not give second reading to this Bill until such time as it is assured that, in the opinion of the Alberta Court of Appeal, none of the Bill's provisions contravene the Charter.

Mr. Speaker, this government should be ashamed -- ashamed -- of the legislation they've put before this Legislative Assembly. I think it's important to note that bill 22 will amend rights and freedoms previously granted in the existing labour Act. One of the basic tenets of democracy is that once rights are granted, they are only taken away where it is clear that the granting of those rights would materially interfere with rights granted to others; in other words, where the common good requires certain rights and freedoms may be abrogated. But those rights and freedoms are only abrogated where it is clearly justifiable.

I've got grave doubts about the constitutionality of the legislation that we see before us, Mr. Speaker, and I think that's clear to many Albertans, not just me standing here and saying it. I think there are many Albertans who share my views in saying that certainly this bill as it's been proposed is clearly unconstitutional.

Let's consider certain portions of the bill for the information of the Minister of Labour. The part I'll refer to first is section 113 that's contained in division 19 of the bill. Quite clearly, Mr. Speaker, this section violates rights and freedoms that were granted to employees under the Charter of Rights and Freedoms. Quite clearly, in the Charter of Rights and Freedoms, under section 2 of the Charter labeled Fundamental Freedoms, it reads as follows:

> 2. Everyone has the following fundamental freedoms:
> (b) freedom of . . . expression, including freedom of . . . media of communication;
> (c) freedom of peaceful assembly; and
> (d) freedom of association.

Mr. Speaker, clearly in labour legislation from the east coast to the west coast of this country and in many other democracies in the world employees are granted rights of association. It's

taken for granted that those rights include the right to freedom of association. That's granted to them in the freedom to choose a union of their choice: them only, Mr. Speaker -- employees -- because they're the ones who make application for certification. Only employees, Mr. Speaker. Not employers, not governments, not employers' organizations, not trade unions: only employees.

The minister and the government spoke at great length about minimizing government interference. He spoke about equality, fairness, a level playing field -- all those fine things. But, Mr. Speaker, what's the reality? If we examine division 19, section 113, of the minister's new Labour Relations Code, what we find is an unwarranted intrusion into the rights of employees granted under the Charter of Rights and Freedoms in Canada. Should a government be allowed to revoke the certification of a trade union? Should a government be allowed to do that? And that's clearly what it says in section 113 of the minister's new Labour Relations Code. Quite simply, Mr. Speaker, the answer is no; the government should not have that right. Should the cabinet of this government have the right to revoke in section 113 the certification of a trade union? Is this a decision that's made by cabinet in the back rooms?

MR. YOUNG: On a point of order, Mr. Speaker. The hon. Member for St. Albert really has to confine himself to the subamendment. I haven't heard anything since he commenced speaking that deals with the subamendment. The subamendment, I submit, is somewhat narrow, but I didn't propose it, and I'd be happy to dispose it, if that is the will of the House. But until it is disposed, unless we set a rather awkward precedent for the House, I submit that the debate has to turn on whether or not the Bill will be given second reading until it is assured that there is an opinion favouring it from the Court of Appeal. And that is not at all what the hon. member is speaking to. [interjection]

MR. SPEAKER: No, hon. member. Vegreville has nothing to do with this. It's either St. Albert or the member who raised it.

MR. FOX: To the point of order. I rose to speak on the point of order.

MR. SPEAKER: Not necessarily so, hon. member. It's in the discretion of the Chair. Thank you very much.

St. Albert on this particular point of order.

MR. STRONG: Yes, Mr. Speaker. Quite clearly, rather than the Government House Leader jumping up on points of order, what he should be doing is addressing what it does say in the subamendment. Quite clearly . . .

MR. SPEAKER: That, hon. member, is exactly his point to you. Could you deal with the point of order?

MR. STRONG: That's exactly what I'm going to deal with, Mr. Speaker. Quite clearly, I feel that this subamendment allows a member the right to point out examples of what this minister and this government should consider as being in violation of the Charter of Rights and Freedoms and areas that this government should specifically take to the Court of Appeal to get a determination on. Now, I think that's valid.

MR. SPEAKER: Thank you, hon. member. Speaking to the point of order, both comments are indeed valid. The Chair was allowing one bit of latitude to the Member for St. Albert in citing one particular section, but if the member was going to go to any other section, he was going to be ruled out of order and will be ruled out of order, because the matter, as the direction is given, is that one has to deal with the subamendment as drafted by individuals on that side of the House. So when the member concludes his comments with regard to section 113, then he will indeed be brought back to the specific wording here. That will be the only example allowed on this subamendment The Chair did not write the subamendment.

MR. STRONG: Mr. Speaker, speaking to what you just delineated, I'd like to know what particular sections you're referring to, either in the Standing Orders or *Beauchesne,* that deny me the right to turn around and name as many examples of what I feel the minister . . .

MR. SPEAKER: Thank you, hon. member. Thank you very much. I refer to section 734 in *Beauchesne.*

Now, if you'd like to continue with your comments on the subamendment, please do so. Failing that, the Chair will recognize someone else. Thank you.

To the subamendment, thank you. Last time of asking.

MR. FOX: Mr. Speaker, if I might, on a point of order.

MR. SPEAKER: The Chair recognizes . . .

MR. FOX: As Acting Opposition House Leader, I respectfully request to be recognized on a point of order.

MR. SPEAKER: Your point of order is, hon. member?

MR. FOX: Well, Mr. Speaker, when the hon. Government House Leader rose on a point of order, he was recognized. I rose to participate in that, and you told me that it was none of my concern. It's my understanding that as Acting Opposition House Leader, I have, if recognized by you, the opportunity to respond. I'm puzzled by your suggestion that I don't have the right or that it doesn't involve me. With your permission, I would . . .

MR. SPEAKER: Thank you. That point of order has been determined. The Chair was not able to see your subtitle this evening with respect to your acting position and will, indeed, recognize that if other points of order develop in the course of the evening. In the meantime, St Albert on the subamendment.

MR. STRONG: Thank you, Mr. Speaker. As I was saying earlier, you know, look at the section. What it does is give the cabinet the right to make the decision as to whether a trade union can exist or can't exist, and I don't think that's fair.

Does it mean -- and I'll ask through the Chair to the minister -- does this section mean that a trade union, if it doesn't bow down before this government, can have its very existence terminated by this government? Mr. Speaker, this is a form of capital punishment for trade unions that do not have the same political philosophy as the minister and his cronies. Now, that isn't fair, and it's something that they should consider: capital punishment that doesn't have any objective standard, no appeal process, no hearing, no fair impartial hearing and no public inquiry, no ability for the trade union to be given a full public hearing and for the public to have full public scrutiny. Now, I

think that's in violation of the Charter of Rights and Freedoms that was granted to Canadians as well as Albertans, and it's what this government should be considering before dropping Bill 22 in front of the Members of this Legislative Assembly and then trying to squirm it through. That isn't going to work: cabinet the judge, the jury, and the executioner, with no public scrutiny -- clearly unconstitutional, dictatorial, Mr. Speaker. It makes Alberta no better than a banana republic is, with some tin-pot despot denying freedoms. Is that fair? Is that equitable? Certainly not.

What this government should do is do its homework before it just arbitrarily drops in front of us as Members of this Legislative Assembly a shameful, offensive piece of legislation that should have never been dropped here. And they know it, Mr. Speaker. They just hate us getting up and talking about it, because it is public disclosure, and a darned good thing, Mr. Speaker.

You know, this minister got up the other night -- got up tonight and made basically the same comments, the comments that he made the other night, identical -- to say that the government had a commitment to get itself out of the business of interfering with the collective bargaining process.

MR. YOUNG: Mr. Speaker, on a point of order. I refer to Standing Order 23(b)(i), and that's the question of relevancy. Again, I want to point out to the Assembly that in the manner in which the amendment and then the subamendment are structured, there is a very narrow speaking point. And again I submit that perhaps it wasn't intended this should happen in the manner that it has, but the amendment itself would appear to give quite a bit of discussion room and may even have covered the hon. member's recent remarks, because it deals with the relationship between the Bill 22 and the Canadian Charter of Rights and Freedoms. But the subamendment has really narrowed it down tremendously, and it's narrowed it down to a question of the opinion of the Court of Appeal and why that should be. Again, I submit the hon. Member for St. Albert has just absolutely missed that point. He may be talking to the amendment, Mr. Speaker, but I submit he's not talking to the subamendment, and perhaps it would be easier all around if we deal with the subamendment and then get back to the amendment where there seems to be more room, in my judgment, for discussion.

MR. SPEAKER: The Member for Vegreville, as the acting House leader for the New Democratic Party.

MR. FOX: Thank you, Mr. Speaker. On the point of order, it seems to me -- I can understand the problem the hon. Government House Leader has with our dealing with our concerns at some length. But it seems to me that the scope of the subamendment is fairly broad in that it recommends we not give second reading to the Bill until we can be assured "that in the opinion of the . . . Court of Appeal, none of the Bill's provisions" -- none of the Bill's provisions, which are many and varied -- "contravene the Charter," which itself is an extensive document.

Now, to suggest that a member in speaking to this subamendment could merely get up and repeat the words in the subamendment again and again is, I think, too narrow an interpretation. And surely a member speaking has the opportunity to frame an argument to demonstrate to other members of the Assembly, and indeed to the public, why we support this subamendment, why in our opinion -- based on precedent, circumstance, and present and future realities -- we should seek the opinion of the Alberta Court of Appeal to make sure that none of the Bill's provisions contravene the Charter of Rights. That to me is an intelligent and logical way for us to proceed in dealing with the subamendments.

MR. SPEAKER: With due respect, hon. members, to quote from *Erskine May,* page 397:

> The effect of moving an amendment is to restrict the field of debate which would otherwise be open on a question.

It then goes even further with respect to dealing with a subamendment it's a narrowing of the field.

With respect to the practice of the federal House, the Chair has been perusing a document with respect to relevance and repetition at second reading and other stages of a Bill's progress, and it is quite clear that when it comes to amendments and subamendments, the focus is becoming more and more narrow. It's specifically at second reading that there is to be no reference to various clauses. The Chair allowed one reference in this case. The Chair also admonished St Albert in that regard, and St Albert then went on to refer yet again to that particular section within the Bill. That will cease with regard to this particular subamendment.

The point is, there are two points to be kept in mind: that in the drafting of the amendment and the subamendment the focus narrows. There was some hesitancy on the part of the Chair to even accept the subamendment, because the subamendment is so much similar to what the amendment is that in actual fact it was a fifty-fifty call as to whether the subamendment would proceed. So for the balance of the discussion on subamendments, you may as well be prepared for being called to order if it wanders from the subamendment.

St. Albert, concluding remarks, perhaps, with regard to the subamendment.

MR. STRONG: Mr. Speaker, quite clearly you gave me the right to refer to one specific section of the legislation that's before us.

MR. SPEAKER: But not at great length, sir.

MR. STRONG: Okay. Now, I want to ask some guidance through the Chair, Mr. Speaker, if I might. You indicated that I had the right to speak to one specific section. We've accommodated that But when you look at the . . .

MR. SPEAKER: Thank you, hon. member, but it was with regard to a brief reference with regard to comments on the subamendment, not to be referred to time and time again.

MR. STRONG: Mr. Speaker, perhaps the Minister of Labour could advise Albertans and all hon. members here tonight what country he visited on his vacation, his taxpayer vacation, to bring back legislation such as we . . .

MR. SPEAKER: Thank you, hon. member. Please come to order. That has nothing to do with the subamendment.

MR. STRONG: Mr. Speaker, again I have some difficulty, because it's my feeling that what it says -- and I'm asking for clarification -- in the subamendment is: "that, in the opinion of the Alberta Court of Appeal, none of the Bill's provisions . . ." That includes the whole Bill. Isn't that what it says?

MR. SPEAKER: Thank you, hon. member. We're dealing with the subamendment There's been enough of this.

The Chair will now recognize another member speaking to the subamendment Calgary-Mountain View.

MR. HAWKESWORTH: No, Mr. Speaker, on the point of order. Are you telling the member he has lost his right to speak in the Legislature? [interjections]

MR. SPEAKER: Forgive me. There have been sufficient interruptions with regard to this. This is not a question. But if you wish to challenge the Chair, please proceed in the normal process. The Chair has brought to the attention at least three times with regard to the remarks of the Member for St Albert and has advised caution, has advised him to continue in a different frame, and now has been dealing in something that is unparliamentary of questions back and forth to the Chair. That will not continue. The Chair admonished the Member for St. Albert to continue, taking into account that the member did not continue to do that. The Chair has the right to recognize another member in debate, and that is indeed what has occurred, and there's no . . .

If you wish to challenge the Chair on that matter, please bring in a substantive motion at your convenience.

In the meantime the Chair recognizes Edmonton-Gold Bar on the subamendment.

MR. STRONG: Mr. Speaker, a point of order.

MR. SPEAKER: I'm sorry. What will it be? If it's germane . . .

MR. STRONG: Mr. Speaker, when I made my statements, quite clearly I addressed you as the Chair and asked you for your clarification, and every time I stood up I asked for that clarification.

MR. SPEAKER: Thank you, hon. member. If you'd like to refer to *Beauchesne* 365.

The Chair recognizes Edmonton-Gold Bar on the subamendment.

MRS. HEWES: Thank you, Mr. Speaker. I think I can say all I profitably need to in two or three minutes.

Mr. Speaker, I must support the subamendment. Unfortunately, it appears to be necessary, because we have not seen the amendment and we need to know from the minister precisely what his intentions are. In the absence of knowing what the intentions are, we must make provision to test this Bill in court, if necessary.

Mr. Speaker, it's hard to imagine a Bill that has taken so long to produce that could finally be here and contain in it a section that would even require such an amendment a section that is obviously and visibly and demonstrably in breach of the Charter of Rights and Freedoms. I think it's a sad measure of how this government perceives itself, that anything is possible if we just want to do it badly enough.

Mr. Speaker, I personally and, I believe, many Albertans were offended by this section and would support it being tested. I've participated in marches for causes. I've walked with picket lines. I've been in lawful, proper marches and lawful, proper strikes with church groups and so on, to express my support and express what I believe to be mv proper concern for injustices. I don't know what provoked this particular section. Was it only Gainers, or were there larger considerations? But I perceive it to be muzzling the public, to be muzzling citizens. It looks like a little step on the surface, but it's an indicator and a signal of enormous consequences, and I believe it to be a very dangerous signal.

I'm glad the minister has indicated to us, Mr. Speaker, that he has been persuaded to amend the section, and perhaps it won't be necessary for us to pass the amendment that says it should go to the Alberta Court of Appeal. But I'd be interested to know and I will listen eagerly to hear how he came to the position. I hope he came to it because he recognized the folly of it that it was a positive move taken gladly, recognizing the error in wording and intent and certainly in consequence, and not simply a move that he was compelled to take. I look forward to the amendment that hopefully will move this offence, because the people of Alberta are deeply concerned by this Bill and by this particular section of it Many of them -- many of them -- have expressed that to me and, I'm sure, to other members of the House. They need to have their confidence restored through the courts if that's necessary.

So I'll support the amendment.

MR. SPEAKER: Thank you. Edmonton-Mill Woods to the subamendment.

MR. GIBEAULT: Yes, Mr. Speaker. The subamendment clearly is trying to save this government from a great deal of not only difficulty in this Legislature and difficulty with many conscientious Albertans but endless litigation in the courts. The subamendment clearly says that we -- that is to say, this Assembly

> not give a second reading to this Bill until such time as it is assured that in the opinion of the Alberta Court of Appeal, none of the Bill's provisions contravene the Charter.

Now, Mr. Speaker, this Bill has been so long in gestation and is so important to so many Albertans and will affect so many working people in this province for a long period of time that it seems to us on this side, given the controversial provisions in this Bill, particularly section 81, among others -- but particularly 81 that is so much of an affront to fundamental freedoms that are commonly accepted by peoples of democratic countries -- that this government would be wise just to take the opportunity to have the Bill put before the courts and get a determination. Because if they choose not to support this subamendment and if they choose not to refer this Bill before the Alberta Court of Appeal, then clearly, as I said, what is going to happen is endless litigation, lawsuits, civil action, civil disobedience, and related difficulties.

I would imagine -- I would like to believe -- that the government doesn't want to do that I would like to believe, after the Gainers incident and many other disputes in this province that have led up to Bill 22, all the public hearings, all the submissions that the minister referred to, that it is clearly the intention of this government to come forward with a Bill that will allow the people of this province to have fair labour laws, laws that people will have respect for, Mr. Speaker, and that will allow people to resolve disputes in a way that is commonly accepted by people in democratic countries around the world.

Now, this particular subamendment again is saying that we decline to give it second reading. As I said, it's really just an opportunity to prevent endless amounts of litigation. I'm not a lawyer, Mr. Speaker, and I'm not going to benefit if there are a

lot of lawsuits that come out of this kind of action. There will be lawyers that will benefit from this, and I'm not one of them. But I have taken a look at some of these provisions in Bill 22, and section 81 particularly disturbs me, regarding secondary picketing and consumer boycotts.

The Minister of Labour referred to these amendments that appeared on our desks this evening. I looked through these carefully, and I don't see any provision to withdraw or amend section 81. It's not there. So I want to just reiterate my concern that if this subamendment, making a reference to the Alberta Court of Appeal to determine the constitutionality of these provisions, is not made, we are indeed asking for a great deal of labour strife and difficulties through the court system. Now, the courts are plugged badly enough as they are, if anyone's had to try to get a law case through in recent times. I don't know why this government would want to put in a provision such as section 81 in Bill 22 as it's been presented, which would further complicate the judicial process of the province and provide all kinds of additional delays in people trying to get legal proceedings through the courts.

Section 81, more commonly known in many circles that I move in as "Pocklington's plum," really is clearly unconstitutional. As I said, Mr. Speaker, I'm not a lawyer, so I'm not asking the government to accept my opinion on the matter. But the subamendment is asking the government to be reasonable here and submit this very controversial provision in this Bill, if it's not prepared to amend it — and as I said here, these amendments that were circulated have no intention there, apparently, of modifying or withdrawing that particular section — to a Court of Appeal to make sure that it doesn't contravene the Charter. Now, if this government is so convinced that this Bill does not contravene the Canadian Charter of Rights and Freedoms, then why doesn't it do that? Why not get that legal opinion, bring it back to this Assembly, and say, "Okay, hon. members of this Assembly, the Court of Appeal has determined that this is a constitutionally valid provision, a constitutionally valid Bill, that there arc no provisions in this Bill which contravene the Charter of Rights and Freedoms." That will set the tone, provide a tremendous foundation for this Bill and its support in the labour law of this province for years to come.

This kind of a review of labour law is not something that takes place on an annual basis, Mr. Speaker. This process has come out of years of difficulty and review, and I suspect that we're probably not going to see another labour relations Bill come before this Assembly for several years. So we've got an opportunity to do it; let's do it right. Let us submit this Bill to the Court of Appeal, as the subamendment is providing for, and ensure that all of the provisions are in fact constitutional, because there are many knowledgeable opinions that are suggesting that several sections are in fact not so. As I said, if we do not support this subamendment that is before us and if the government defeats it, they're really asking for an endless amount of legal difficulties. And I think that is not the kind of environment that we want to have in labour relations in this province. Surely we have to provide in a Bill like Bill 22 ~ which is the definitive environmental context, if you like, that labour relations takes place in in this province ~ an environment which can have the respect of the working people of this province and of employers and one that is not going to provoke endless references to the courts.

Now, Mr. Speaker, I want to be able to encourage my constituents in good faith to have respect for the laws of this province. As a legislator I feel some obligation to do that But when I see Bills that are before us such as Bill 22 with provisions that in my humble opinion as a nonlegal person, which is supported by many legal opinions that I've had access to, have included in them provisions that are clearly unconstitutional, it becomes very, very difficult for me in good conscience as a member representing the constituents of Edmonton-Mill Woods, the workers of that constituency, to say that now that the government is not going to support this subamendment that we have proposed, asking simply that it be submitted to the Alberta Court of Appeal to make sure that in their view ... Now, if it's judged by the courts to be in conformity with the Charter, that's good enough for me. I will say to my constituents that this has been determined by the legal minds of this province to be in order, to be in conformity with the Charter of Rights, and I will be prepared to accept that. I again say that if the government is so convinced that it is, then why not put this before the courts and let us get the best legal opinion of the province before we put into place the Bill that is going to govern labour relations in this province for many years to come?

Now, Mr. Speaker, that whole point of respect for the law is at the heart of this subamendment. We're talking, really, about a law that in the opinion of many people is containing provisions that are in contradiction to the Charter of Rights and Freedoms. And we cannot in good conscience as legislators be putting forward laws to our constituents that are going to have such a profound impact and yet contain, as many legal and other opinions have expressed to us, Mr. Speaker, the basis of challenges through the courts. Now, we could do that, and court challenges take a long time to resolve. Heaven knows, the Lubicons and many other people have had a lot of experience trying to deal through the courts, and that, I think, really is an indication that the law at hand is not adequate to deal with people's needs.

I want to suggest to the government seriously that I would like to be able to come out of a Legislative Assembly session having passed a new Labour Relations Code and being able to say in good conscience and in good faith to my constituents in Edmonton-Mill Woods, to the working people of Edmonton-Mill Woods, that the Legislative Assembly declined to give this Bill second reading and referred it to the Alberta Court of Appeal in order to determine that all those sections and the tone of the Bill, that all of that is in conformity with the Charter. Because the Charter is, in fact, the foundation, or certainly one of the keystone foundation pieces of legislation in our country. As I said, we cannot be proposing to our constituents and to the people of our province Bills with provisions that are unconstitutional, and I think clearly that's what we have before us.

As I said, if this minister and this government believe that these provisions are constitutional and they are proud of that and they're prepared to stand before it, if they have legal opinions within the government ~ the Attorney General and his department and others - and if they are in fact that confident of the constitutionality of Bill 22, why not put it before the courts, the Court of Appeal? Why not get the ruling of the legal minds of the province, the most senior and the most experienced legal minds of this province, and simply pass a ruling on this that in fact this Bill is in conformity with the most basic foundation law of this country, the Canadian Charter of Rights and Freedoms?

I put that challenge to the minister. I challenge him and invite him and plead with him to stand in his place and to support this subamendment and to indicate to the House and to the people of this province that it is the intention of this government to pass laws that are in conformity with the Charter and not in con-

tradiction with the Charter. Let's be putting forward to the House and to the people of the province a Bill that all of us can be proud of, one that has been given the green light by the legal people -- the senior legal environment of this province, the Alberta Court of Appeal -- and a Bill that will have the support of the Charter and that we know will provide a foundation for labour relations for years to come and will not bog us down in labour relations with endless litigation which serves no useful public purpose whatsoever.

So my challenge is there to the Minister of Labour and to his government to please support this reference, this subamendment which is asking that the Assembly declare that we not now give this a second reading and that we refer the matter to the Alberta Court of Appeal to ensure that none of the provisions of this Bill contravene the Charter of Rights and Freedoms.

MR. SPEAKER: Question on the subamendment?
Edmonton-Kingsway on the subamendment.

MR. McEACHERN: Thank you, Mr. Speaker. I would like to speak to this subamendment through the original amendment moved by the hon. opposition leader. Now, his amendment I will remind you, was this: "That this Assembly decline . . .

MR. SPEAKER: Order please, hon. member. To the subamendment. The Chair heard comments about the amendment by the Leader of the Opposition. Please, the sponsor of this one is Edmonton-Highlands. Subamendment.

MR. McEACHERN: I was speaking to the subamendment. I was merely putting it in the context of the original amendment, Mr. Speaker.

MR. SPEAKER: We're on the subamendment, thank you.

MR. McEACHERN: That

> this Assembly declare it will not give a second reading to this Bill until such time as it is assured that, in the opinion of the Alberta Court of Appeal, none of the Bill's provisions contravene the Charter.

Now, Mr. Speaker, that is of course the proper forum for a checking of the legalities of the labour legislation. Of course, the reason for it is that a number of provisions in the Bill do in fact contravene the Charter of Rights, and they need to be checked out very carefully.

I would like to start by saying that in the Charter of Rights and Freedoms the main provision that I think this Bill has contravened shows up on page 3, number 2, of the copy of the Constitution that I happen to have, and it says:

> Everyone has the followin g fundamental freedoms:
> (a) freedom of conscience and religion;
> (b) freedom of thought belief, opinion and expression, including freedom of the press and other media of communication;
> (c) freedom of peaceful assembly . . .

That's the one that section 81 contravenes, and:

> (d) freedom of association.

There are other parts that I believe, at least in light of some of the other comments in the Charter which I will look at later, means that they contravene the Charter in other places as well.

But I want to look at 2(c) first the freedom of peaceful assembly, in relation to section 81. The minister can tell us that he has some amendments for section 81, but we haven't seen them yet and have no reason to assume that they will necessarily satisfy us that they do not contravene the Charter. And so, Mr. Speaker, in absence of the details of exactly what is intended, it would seem to me that it's incumbent upon this government to make that available to us or to stand up and explain to us in great detail -- and I can't help but notice the lack of anybody on the other side standing up and explaining -- why they think this subamendment isn't a good one. It's a logical conclusion, given the way the Bill reads. And unless some of you over there, instead of jumping up on points of order, have some good arguments to convince us otherwise, then I would expect that you're all going to support our subamendment and amendment. [interjection] Well, we will eventually.

Now, this section 81 basically prohibits the right of secondary picketing. It takes away the right of freedom of association. We, 16 of us here, associate as a caucus; the same for 61 Conservatives, the same for the four Liberals. We have the freedom to associate. That's a fundamental freedom in a democracy. When we walk out on the street, we have the right to congregate with any group of people we wish so long as we are not perpetrating something that is illegal. We can get together and form a committee, an organization, a group. You can call it anything you like, and any group of people in a democracy have the right to get together and form any kind of an association they wish, as long as they do not set about doing something that's illegal or breaking some laws within the country.

[Mr. Musgreave in the Chair]

And so why this minister would assume that he had to say that we couldn't have freedom of association in terms of picket lines, I do not understand. Now, I know what his problem is: he's looking back at some of the violence that occurred in the Gainers strike. Yes, one never condones violence, but the fact is that scab labour was causing these people a lot of problems and they decided that they had to picket and their family and their friends decided they would join them on the picket lines. So now the government is saying that they're really going to back the employer over the employees in that kind of a dispute even before any trouble is caused. Now, if the people on a picket line are doing something illegal, like destroying property or hurting somebody, intimidating somebody, then the government or the employer or the police have the right to step in. They can go to the courts . . .

MR. ACTING DEPUTY SPEAKER: Order please. I'd like to remind the hon. member that we are discussing the subamendment, which is:

> . . . that in the opinion of the Alberta Court of Appeal, none of the Bill's provisions contravene the Charter.

We are not discussing any strike action or anything other. We're discussing this amendment.

MR. McEACHERN: Mr. Speaker, I think you're really kidding me. What I'm really talking about here is the Charter of Rights provision which says that people have the freedom of assembly. I'm saying that a part of this Bill, this section 81, until we know otherwise, violates that That's all I'm discussing, and that is why this Bill should be put before the Alberta Court of Appeal, to see whether or not it does violate that Act So I really am straight on topic, if you don't mind.

AN HON. MEMBER: In your opinion.

MR. McEACHERN: Well, I mean does he want me to stand here and say over and over again, "Gosh, we've got to submit this to the Court of Appeal; we've got to give this to the Court of Appeal"? I'm explaining why it should go to the Court of Appeal. I'm saying that the government came down on the side of the employer and that that was unfair to the worker's right to freedom of association. It was unfair to the general public's right to freedom of association.

The minister, when he talked about the provisions of this Bill and when he set up his committee, for example, said that he wanted representatives of three groups of people, the workers and the companies and the general public, and he got three from each group to put on the committee. When he brought in the rules and went through the preamble, he said it was really important to note that the interests of all groups of Albertans be taken into account in his level playing field between the workers and the employers. He said the reason that that's important is not just for their own sake; you know, for the sake of the company doing well in, say, competition with other companies, and not only just for the sake of the workers who want a good job but also for the sake of the general public. So as a person who's neither a member of a union nor an employer, I am a member of the general public, and I believe that I have the right to freedom of association. So if I want to start a boycott or to walk on the picket line beside somebody who's picketing, then I think I have that right. This Bill had intended to take that away. Now, I don't know if it still does; I've got to admit that I don't know if it still does. But if the minister doesn't want us to address that point, then he needs to give us copies of that amendment so that we can see why we should drop this point.

But before I drop that point, because other people have referred to it, I would like to point out that there may have been a couple of . . . If the amendment addresses that problem to our satisfaction or to the satisfaction of the Court of Appeal or any other fair-minded Canadians looking at our Constitution and at these labour laws -- I say "if" because I'll wait until I see them; I'm a bit skeptical. If the amendment addresses it to the satisfaction of all those groups I mentioned, then I say to the minister that he's playing a funny game. Either he put it on the books so he could give it away as kind of a bargaining chip to try to be able to brag to the people of Alberta that he listened and heard and therefore backed off . . .

MR. YOUNG: Mr. Speaker, with all due respect, on a point of order. The hon. member is again hoist on the petard of the very narrow subamendment He should, Mr. Speaker, with due respect get himself hoist back there again, because he's wandered far off it and started to speculate upon the motivations of the minister. He must confine himself, within Standing Order 23, to a very narrow point and not flounder all over and speculate widely.

MR. McEACHERN: I'm sorry if the hon. member doesn't think this is relevant but we are talking about section 81 of this Bill, which to this point we have no reason to believe has been changed in any substantive maimer or in a manner that's satisfactory, that the Court of Appeal . . .

MR. YOUNG: Mr. Speaker, I must rise on a second point of order. The Speaker this evening has already delivered the admonition that a brief passing mention of a specific section of the Bill is fine but to dwell on it is not The hon. Member for Edmonton-Kingsway has not only dwelt on it; when he's been on the subject at all, he's immersed himself in it. He'd better throw off that cloak and get back to the broad Bill, Mr. Speaker. That's what the subamendment is about.

MR. HAWKESWORTH: Mr. Speaker, with all due respect for the hon. Government House Leader, it was plain that the member speaking, Edmonton-Kingsway, believed that the Government House Leader had not got the point Obviously, if he had got the point, he wouldn't have stood up and interrupted the hon. member. The hon. member was coming back to that point, to repeat it to make sure that it was clear to the hon. Government House Leader and yourself that he was in fact being relevant.

MR. ACTING DEPUTY SPEAKER: The Chair pointed out to the hon. Member for Edmonton-Kingsway that he was to address the amendment, which reads:

> and this Assembly declare it will not give a second reading to this Bill until such time as it is assured that, in the opinion of the Alberta Court of Appeal, none of the Bill's provisions contravene the Charter.

And that is what the hon. member is to debate or the Chair will recognize someone else.

MR. McEACHERN: Mr. Speaker, that's what I was addressing. It was merely in passing that I was saying that if the minister had intended all along to amend that so that it would be in compliance with the Charter of Rights and Freedoms and so that the court ruling wouldn't be necessary, then I say that he was playing games with the people of Alberta. Again, I think that stands as a fair enough point.

I would also point out that this government has spent something like over $900 million out of the Attorney General's department on Constitution and energy law. Now, if they can spend that kind of money on that point, why couldn't they see to it that these laws, this Bill 22, conform with the Constitution of this country? It seems like an easy and logical step to turn it over to the Alberta Court of Appeal, and yet still the government says that it can't do that.

[Mr. Speaker in the Chair]

In fact one of the things they could have even done which would have perhaps helped and put some of our minds at rest is that a few years back, in 1984, the Alberta government -- well, I'm not sure that they did this; maybe this was just done as a volunteer group. But the Alberta Civil Liberties Research Centre spent a lot of time analyzing the statutes of Alberta to find out if they complied with the Charter of Rights. So maybe if they wanted to save some money, instead of getting a legal opinion, maybe they could have asked these people to look into whether section 81 . . .

MR. SPEAKER: Order please, hon. member. That suggestion is not congruent with the wording of the subamendment It would necessitate a further subamendment which is not possible in parliamentary procedure on this one. Further comments to the subamendment.

MR. McEACHERN: Thank you, Mr. Speaker. Is it really not possible to say, like, "This is our best suggestion, but if you couldn't do that you could at least do this"? Is that not a logical sort of thing to suggest? That is really all I was saying, Mr.

Speaker. You know, you've got to ever be helpful if it looks like the government is going to turn down our proposal without a word of actual debate. Yet even when I make another suggestion, somehow that's out of order, and I don't really see why.

Anyway, I think the Charter of Rights and Freedoms has been abrogated in a couple of other places as well as the point that we mentioned about the freedom of peaceful assembly. And I want to turn again to page 3 of the Charter. The last point in the list of section 2 that I read out before w a s . . . Page 3 of the Canadian Constitution, 1981, says:

> 2. Everyone has the following fundamental freedoms: . . .
> (d) freedom of association.

Now, Mr. Speaker, what that really means is that a group of people have the right to form a union. And freedom of association, the freedom to have a union, has traditionally in western democracies for some years now also meant the right to free collective bargaining, which embodies the right to strike. I would say that not only did this government throw away that right in Bill 44 for the nurses and certain other parties but that this Bill makes it more difficult And if you take that freedom, the freedom of association, in conjunction with the first point in the Canadian Constitution, then I think we can make a case for saying that this Bill abrogates the Constitution in another fundamental way and therefore should be checked against the Alberta Court of Appeal.

Section 1 on page 3 of the Canadian Constitution, 1981, says:

> The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably . . .

I'm so dry, I'll have to have a drink here.

MR. YOUNG: Mr, Speaker, while the hon. member is drinking, perhaps it's time for another point of order with respect to section 23. The hon. member's comments . . . [interjection] Standing Order 23. The hon. member's comments might fit under the amendment, but certainly nothing that the hon. member has said in the last few minutes seems to bear on the narrow question of forwarding the matter to the Court of Appeal and getting a response from the Court of Appeal. And I once again say to the hon. members of the opposition that they are walking on a very fine line of debate, but it is a line which they drew. If they choose to remove the subamendment and get on with the amendment, that's fine. But otherwise, in order that this House does not establish a series of very unfortunate precedents, they should adhere to the rules of the Assembly.

MR. SPEAKER: Thank you.

Member for Edmonton-Kingsway, specifically to the subamendment.

MR. McEACHERN: Well, I submit that he was jumping the gun a little bit. He didn't let me finish my argument. I was basically laying out the grounds on which I believe that this Bill does violate the Charter of Rights, which of course then become grounds for handing it over to the Alberta Court of Appeal to see what they think, whether they're right or not. I mean, surely that's what this is all about finding examples in the bill and rights as enunciated in the Constitution that are somehow at odds, and at least being allowed to make my case. Now, I might be wrong. I mean, maybe the learned judges might override me, but that's really all I was doing. And before I can finish reading the statement from the Charter of Rights, he's telling me that I'm off topic.

MR. SPEAKER: Read the material, hon. member. Please get back to your comments.

MR. McEACHERN: Okay. Well, I will finish reading the statement that I was reading, then, in the Charter of Rights. It's point number 1, the *Guarantee of Rights and Freedoms.* It says: *"The Canadian Charter of Rights and . . .*

MR. SPEAKER: Thank you, hon. member. Now the Chair Will bring you to order for needless repetition. You were down to "set . . . such reasonable limits." Perhaps you could continue from there rather than giving us the whole section.

Thank you very much.

MR. McEACHERN: Mr. Speaker, I appreciate your point but I did, if I remember right kind of run out, got a little dry, and didn't finish the statement. So if there's only one sentence, after all, to start in the middle now after the interruption we've had would seem rather awkward, would it not?

MR. SPEAKER: Thank you, hon. member. The Chair will read it for you:

> . . . reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Additional comments please, hon. member.

MR. McEACHERN: Well, thank you, Mr. Speaker. You did leave off the first part, but that's still not bad, and it should help my cause.

MR. SPEAKER: Thank you, hon. member. This is the last time of warning. If the member does not proceed, the Chair will recognize another member. This is the last warning.

[Mr. McEachern took a drink of water]

Thank you, hon. member. The Chair recognizes another member of the House.

MR. McEACHERN: Please, sir, I just had to take a pause for a minute . . .

MR. SPEAKER: I'm sorry, hon. member. No.

MR. McEACHERN: You've got to be kidding, sir.

MR. SPEAKER: The Chair is not kidding. The Chair, thank you, will recognize another member. [interjection] Order, hon. member.

MR. McEACHERN: A point of order.

MR. SPEAKER: The Chair Will recognize the point of order in a moment

Member for Edmonton-Centre.

Point of order, Edmonton-Kingsway.

MR. McEACHERN: Well, I don't understand. Really I didn't mean to be disrespectful, but I did need a moment to collect my thoughts about where to pick up the trend after the interruption I'd had, and I think it was . . .

MR. SPEAKER: Thank you, hon. member.

Edmonton-Centre.

REV. ROBERTS: Well, Mr. Speaker, it does seem to me that there's a great tempest in a teapot here. It's a very wide subamendment we're discussing here. It allows for a great deal of latitude and very important discussion and debate. If we can just remind ourselves of what it's calling for in terms of Ms Barrett's subamendment, which is that the

> Assembly declare it will not give a second reading to this Bill until such time as it is assured that, in the opinion of the Alberta Court of Appeal, none of the Bill's provisions contravene the Charter.

Now, Mr. Speaker -- and I think you might have been advised recently of this, but we are simply doing what is already in legislation -- the government members need only to look at the Judicature Act, section 27(1). This is all we're doing. We're talking about what's already in law: the Judicature Act, section 27(1). I'm sure the Government House Leader has it there before him. I'm sure you do, Mr. Speaker. Because it simply already states what we are wanting to bring in place in terms of this subamendment.

Now, if you don't have it and the hon. members don't have it . . . They think it's such a narrow, narrow interpretation of law; it isn't. It's very wide, because the Judicature Act, section 27(1), for all hon. members, reads as follows:

> The Lieutenant Governor in Council may refer to the Court of Appeal for hearing or consideration any matter . . .

any matter -- Bill, or section or anything

> . . . he thinks fit to refer, and the Court of Appeal shall thereupon hear or consider the matter.

I think it's very clear from that that we in the Official Opposition New Democrats are really just wanting to use this added provision, which learned minds in other Legislatures in other sessions have already brought into law, which is to give this extra check, this extra balance so that the Court of Appeal may have this way of . . .

Now, I don't know what the Parliamentary Counsel is chatting about here, Mr. Speaker, but I hope he's making clear to you that we in the Official Opposition New Democrats are just wanting to add this extra check and balance, which is already provided for. I'm sure a lot of debate went into the Judicature Act section 27(1), at second, third reading, and so on, and I'm sure the debate at that time was very wide in terms of the need for this kind of check and balance.

Mr. Speaker, this is, as hon. members have already debated, at least on this side of the House . . . It really is regrettable that we don't have a debate from the government members on such an important Bill. But it is urgent. It is incumbent upon us as members duly elected by our various constituents that this labour legislation, this Bill 21, be as progressive and as legitimate as it can be and as we in 1988 can make it be. So this subamendment would ensure that and in due process of law and in due consideration of the courts would ensure for that.

Now, I don't speak as a member of a union; I've never been a member of a union. I've not been in organized labour to know all the ramifications of the legislation and of the difficulties that ensue there, but I have in my various capacities wanted a sense of fairness and justice with respect to how the laws of the land proceed and how we assure for all people, particularly for organized labour where there is often such a discrimination. Those who belong to unions, there is a feeling by many right-wingers and many people in government caucus that they really shouldn't have rights, that those rights should be taken away in some way or other. There's often a great deal of discrimination. If we look at labour history, Mr. Speaker, time and time again the union movement has had to fight those areas of discrimination. So we need this kind of fairness and justice which the Alberta Court of Appeal can assure for us in this day and age, which is a complicated day and age, under the Charter of Rights and Freedoms here in Canada. So let's do the best job we can.

Yet here we are in the Official Opposition, duly elected as Her Majesty's Official Opposition, seeing so many flaws in this very central piece of legislation, so many flaws here and there and everywhere. We have to sit back and say that well, we just can't go ahead and proceed with this Bill, which will be in place for years to come -- until, of course, future governments under a New Democrat caucus will amend them. But it's important now that the regressive parts of them be addressed. Yet why just go ahead without voting for this subamendment which would direct to the Court of Appeal, Mr. Speaker? To me it smacks again of a sense of arrogance. "We know it all; we are the high and mighty Conservative Party, the government of the land, and we know what's best. We're going to put in the laws, and we're going to ride roughshod over any law that happens to be in our way."

It's like the tired, old Tories, like the crumbling Socreds before them, crumbling under the weight of their own arrogance, being not only above the laws of the land but above their own laws. Time and time again we have had examples, whether it's been through the Oldman River dam or other instances, where the government just tramples over laws that are already in place.

Maybe I'm trying to provoke debate here, Mr. Speaker, because I think members might say, "Oh no, that's not the intent of government this day and age; we don't want to trample over the laws of the land." But if it is not, then let's ensure now that we know what the laws are and that we know how a judicial rule in review would assure that we would not be trampling on the Charter of Rights and Freedoms. But it seems to me that the only obvious consideration is that arrogance is at hand here, arrogance and insensitivity, and dishonesty in the sense of, "We are just going to do it our way." without even an appeal to the courts in this very complicated day and age.

Now, I appreciate and we have appreciated, as you said, Mr. Speaker, that the Minister of Labour has said that he intends to file amendments to section 81. Well, his intentions are good. The road to heaven or hell -- I'm not sure which -- is paved with good intentions. But that's not what's before us. This House is to debate the matters before us, and the minister's intentions are not before us. So we cannot sit back and say, "Well, okay; we're going to trust you." Because I think that perhaps raises the greater issue, the issue of trust. I know that organized labour for whatever reasons does not trust this government I know that numbers of people in organized labour do not vote for Conservative members. There is a matter of mistrust and a matter of their interests not being served by this government with this kind of ideological fix.

So the issue I would really like to raise, Mr. Speaker, and I think it is a crucial one in debate, is that what has happened to us since 1982 and the Charter's coming before us is that we in Canada and in the province of Alberta particularly have a new relationship to forge between what it is to be in the legislative process and what it is to be in the judicial process. Now, certainly the question we have to ask is: who rules Canada or who rules Alberta? Is it we in the Legislature or is it the learned members of the Bench? I think this bears very heavily on the debate on this subamendment. Because I went to a session at

the University of Alberta recently on this very question. It was held at the law faculty, and there were three invited guests who were asked to speak on the question of who rules Canada and the shifting powers between the legislative branch of government and the judicial.

There were three speakers at this conference. One was a former member of this House, Mr. Lou Hyndman, who was speaking to this question and spoke in some very critical ways of the way in which legislative power is being eroded under the Charter and the fact that we had to defer more and more and more to the courts. I don't know if members know this Mr. Hyndman, but he made this case very convincingly. Who rules Canada today? Who rules Alberta? It isn't what it used to be; there's more and more sense that the courts rule Canada and that we as legislators need to really take that into consideration. Mr. Hyndman said that. A Mr. Don Johnston - I think he's a Liberal from somewhere, Montreal or something - and also at the same conference was the next Premier of Saskatchewan, the hon. Roy Romanow, who is a very learned man and spoke very...

MR. YOUNG: Mr. Speaker, on a point of order. The hon. Member for Edmonton-Centre is regaling us with what he thinks he heard at a conference, but regrettably it doesn't seem to bear on the narrow path of the subamendment. Perhaps the hon. member could get himself back there, if it's possible.

MR. SPEAKER: Calgary-Mountain View, on the point of order.

MR. HAWKESWORTH: Yes. Thank you, Mr. Speaker. I thought the hon. member had made it quite clear to every member of the Assembly that the topic under discussion was in fact the role that the Charter was now playing and the effect it was having on Legislatures across the country. I thought he had made that point quite well and that all members of Legislatures now have to be quite cognizant and aware and alert to what the courts are doing in respect to the Charter of Rights and Freedoms. I thought he had made that very, very clear. He had summarized the views of one individual member of that panel, without quoting him directly but summarizing his comments on that point, and was about, I believe, to indicate to the members of the Assembly what some of the other views on that very important topic, which bear directly on the subamendment, might have been from the other speakers at that conference.

MR. SPEAKER: The Chair throughout some of the discussion this evening is a bit in a state of unease that some members are forgetting that the true Supreme Court of Alberta is this Legislative Assembly. The Chair also has noted with interest that the Member for Edmonton-Centre did indeed take us down a slightly different tack with regard to the subamendment, but it was indeed on course to make the reference to the Judicature Act. Nevertheless, I'm sure the Member for Edmonton-Centre will deal expeditiously with the subamendment.

REV. ROBERTS: Well, I'll deal with it, Mr. Speaker. If in your mind, whether it's expeditious or not...

The point still is that maybe we should look at what the Supreme Court of Alberta is and whether or not the Legislature here, in terms of some of the laws under the Charter of Rights, really can . . . I don't want to bring it up again, but, you know, the French language question is a case in point.

MR. SPEAKER: Hon. member, this subamendment, please. [interjection] Order please. The Chair has had enough interesting challenges for one evening but is prepared to keep going on if need be with direction to members: stick to the topic. The topic is the subamendment; you have it before you. Please continue.

REV. ROBERTS: Thank you. Mr. Speaker. I will return to not only the topic but the debate which the topic is engendering here, which is a very crucial debate and one, I think, that needs to go on in Canada, with respect to the role of the legislative process and the judicial process working in a new relationship in Canada today and on a number of issues. I don't know how to make the case without citing specific ones, and certainly I'd like to get the transcript of what was said at this conference, because it was a debate on this subamendment I think they would have delighted in this subamendment, because they debated it for about three or four hours: at the University of Alberta law faculty that day. I think that throughout Canada we're going to need these kinds of debates which this subamendment calls forth to really get some clarity.

In terms of the implication of how it is that we can draft legislation with foresight and not have to kind of come back time and time again with challenges to it and deal with it with hindsight . . . I think what we're really asking for here in this subamendment is: let's, with the benefit of the best legal minds that we have in terms of interpretation - and we know how difficult it is not only to write laws and to pass laws but to interpret laws. Certainly, as biblical scholars know, the interpretation of various texts is something that can take one into so many different directions. But it's "Let's get how this Bill 22 is going to be interpreted," which again throws the debate wide open. But let's get a sense of how the courts will interpret it before we really get into the bind of putting things in which we don't really want them to interpret.

In fact, I spoke to a lawyer just this past weekend, and I was surprised that in any judicial decision there is no account taken of the *Hansard* or the debate which was engendered around a particular issue. The courts don't look back on what we as hon. members say; they only take the letter of the law of the Acts. They only take the written word which we pass, and the debate or the intention or the spirit in which it was passed is not there. The law, the wording, the language need to be precise, because that's what they take and interpret. They don't go back and say, "Oh, what did Dr. Reid think he was doing at this time?" They don't make that kind of reference. So we need to be absolutely clear, as this subamendment calls forth, that in fact the judicial scrutiny has gone on, to ensure that we are not getting in this murky water under the Charter of Rights, we're not getting into an area where we don't really want to get in.

Because as other colleagues of mine in the New Democrat Official Opposition have said, there are several sections. I don't know at what point you're going to rule me out of order, Mr. Speaker. I won't refer to section 81; I promise you. But there is section 113. Looking just at the . . . [interjection] How are we supposed to debate this?

AN HON. MEMBER: Your lucky number.

REV. ROBERTS: Yeah. Say, for instance, Mr. Speaker, that this Bill has in it the fact that a union can be decertified if they go on an illegal strike. Now, who's going to determine that? Who is going to determine whether or not that is an illegal

strike? How is it, then, that the cabinet and the Lieutenant Governor in Council can direct the Labour Relations Board to revoke the certification? Now, this is a gross contravention of the rights of association, and here would government be, in a case in point, you know, policeman, judge, and jury over a particular case. To have one Conservative government, for instance, have those kinds of powers . . . If that's intended in this Bill somewhere, say, it would clearly be illegitimate under the current provisions in the Charter, particularly with respect to the right of association. Now, I think the court should look at that, because if we're going to pass that here, if we're going to get into that and then it's going to come flashing back in our faces, we'll have regretted it. As I say, we need foresight not hindsight with regard to this kind of very, very important legislation.

As well, different sections of the Act which may exempt certain workers - say, workers on a farm or a ranch engaged in primary production. Or domestic workers are exempted from this Act. But why? Do these workers not have the right to join a union or to have their interests represented in collective bargaining? I mean, why should this Act take away those kinds of rights from those kinds of workers? Clearly, a violation of their rights, and if Bill 22 wants to go in that direction, we're going to be in big trouble. So let's stop now. Let's take the conservative approach, and say, "Hey, let's get this checked out" Now, we're not in the American system where we have these checks and balances naturally, but let's take a quick check and make sure the Court of Appeal can look at these things and ensure that their interpretation of trying to do these things under the Act would not be in violation of the Charter. Mr. Speaker, I think it only makes good sense.

I know now that I've convinced hon. members of the Conservative caucus to vote for the subamendment Because it is a very, very conservative thing to do. I think that, you know, consonant with their political ideology they'd want to take that slow, arduous, conservative step, making sure that every little thing is taken care of, every little thing is doubly checked before they proceed. You know, Mr. Speaker, we get this time and time again: we can't do anything that's progressive; it has to be conservative. So this is the conservative subamendment. It needs to be passed by hon. members opposite, and I know it will be, after we debate it some moments further.

So the last thing, too, and I want to pick up . . . Mr. Speaker, I don't know if you'll rule it out of order in terms of repetition, but I want to give further emphasis to what the Member for Edmonton-Mill Woods said in terms of how we really do not want to get into a position of having the workers of Alberta, those who are in organized labour, having to give the fruits of their labour over to lawyers and having, through their union dues or whatever, to fight one court challenge after another. Many, many things workers and the unions dues want to be able to do rather than have to go to court time after time after time. We know, with the Lubicon and other issues, that we don't really want to get into a tangled web of a complicated and costly court system.

So again, this is why foresight is so much better than hindsight, particularly with respect to the workers, whose interest we really want to be advocating on behalf of and not have to put them into a position of having to go and fight those, you know. New York City lawyers over at McClennan Ross or other lawyers the government has at their beck and call and get the advice of labour lawyers at Chivers-Greckol and the Alberta Trade Union Lawyers Association and get this whole new war going in the legal community over labour legislation. I mean, it would be very, very regrettable. Now, I know certain lawyers might benefit from this, and some of them over at McClennan Ross will just be delighting in taking one challenge after another to the Supreme Court, Mr. Speaker, but let's not do that. Let's get it checked out now, get the Court of Appeal to give their interpretation of some of these sections so that we can be clear in terms of the intention that we want this Act to be going in.

Mr. Speaker, can I also say on behalf of my constituents in Edmonton-Centre that not many of them are members of an organized union or organized labour. Many of them are unorganized, which is why I'd like to get back to Bill 21. So if we can turn now to Bill . . . We can't turn to Bill 21.

MR. SPEAKER: Thank you, hon. member. This is Bill 22, and it's not only . . . [interjections] Order please. Order.

Government House Leader.

MR. YOUNG: In my brief addition to the debate tonight, Mr. Speaker, I would just observe that should any of this Harvard man's discourse be sent to the Harvard Law School, I'm sure they will reform something. I'm not sure what

Mr. Speaker, I beg to adjourn the debate. [Rev. Roberts rose]

MR. SPEAKER: The Chair has not recognized Edmonton . . . [interjections] Order. It really is inappropriate to have two members standing at the same time. The Member for Edmonton-Centre, who is in violation of that in the House and was not recognized. . . The Chair knows full well that the member has greater respect for the process.

The Government House Leader was in the midst of a comment.

MR. YOUNG: Mr. Speaker, I beg to adjoum the debate.

MR. SPEAKER: On the motion of the Government House Leader, those in favour, please say aye.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

MR. SPEAKER: The motion carries.

[At 10:52 p.m. the House adjourned to Wednesday at 2:30 p.m.]