Legislative Assembly of Alberta

Title: **Tuesday, May 29, 1990 8:00 p.m.**

Date: 90/05/29

[The House resumed at 8 p.m.]

[Mr. Deputy Speaker in the Chair]

head: **Government Bills and Orders**
Third Reading
Bill 21
Financial Administration Amendment Act, 1990

MR. JOHNSTON: Mr. Speaker, I move third reading of Bill 21, Financial Administration Amendment Act, 1990.

MR. DEPUTY SPEAKER: The hon. Member for Edmonton-Kingsway.

MR. McEACHERN: Thank you, Mr. Speaker. You know, in second reading and Committee of the Whole we made a number of comments and asked a number of questions, and I'm a little surprised that the Treasurer didn't take the time to look them over and perhaps answer some of the questions or some of the points that we made about the debt of the province and the borrowing power of the province. But I guess that's his choice, if he doesn't wish to comment.

I don't need to reiterate my points, then, because they stand pretty well as they are, except for one point. I made a mistake on one number, and I would like to correct that. On May 24 in the evening, in discussing Bill 21, on page 1406 of *Hansard*,* in the second column – I'll quote the part here and then explain the correct number – I said:

> So some of those debt servicing costs were kind of catching up [costs]. There's not a one-to-one relationship, and there's some time lag in some of these things. Nonetheless, if an increase of $2 billion in debt caused an increase in debt servicing costs of . . .

I accidentally said "$3 billion" instead of $300 million. So the debt servicing cost should have been $300 million instead of $3 billion. I went on to say:

> . . . then who does he think he's kidding this year when he tries to tell us that the debt servicing costs are only going to go up by $90 million when the debt last year increased by $2 billion again?

So the $3 billion number rather threw that statement out of whack. I think I've now explained it satisfactorily, and of course it makes the point: how can the Treasurer think he's going to get away with a $90 million increase in debt servicing when the debt went up just as much the year prior to that as in the previous year when the debt servicing costs went up by $300 million, by the Treasurer's own numbers?

Mr. Speaker, we will wind up debate on Bill 21, I guess, because I don't really expect the Treasurer to be any more forthcoming than he's been up till now, and just say that obviously Bill 21 is the Bill that gives the lie to all the Treasurer's claims of how wonderful everything is in Alberta and how the debt reduction is on target and we're going to have a balanced budget next year and all these wonderful things that have supposedly happened and are going to happen and how this year's budget was a billion dollar debt reduction budget. This number catches him out; it's the one where he's got to come to us and tell us what he really thinks the debt is going to be for this year, and it shows that it'll be a $2 billion debt, not a billion dollars.

My offer from the other day still stands: I've got $50 in my pocket for anybody who wants to take me up on it, that the debt will be closer to $2 billion for the year 1990-91, when the public accounts are in, than it will be to $1 billion that the Treasurer says it will be.

MR. SHRAKE: You're on.

MR. McEACHERN: Do you have 50 bucks for that?

MR. DEPUTY SPEAKER: The hon. Provincial Treasurer? No? Okay.

HON. MEMBERS: Question.

[Motion carried; Bill 21 read a third time]

Bill 2
Department of Transportation and Utilities Amendment Act, 1990

MR. ADAIR: Mr. Speaker, I move third reading of Bill 2, the Department of Transportation and Utilities Amendment Act, 1990.

MR. DEPUTY SPEAKER: The House is ready for the question?

HON. MEMBERS: Question.

[Motion carried; Bill 2 read a third time]

Bill 9
Electrical Statutes Amendment Act, 1990

MR. ORMAN: Mr. Speaker, I move third reading of Bill 9, the Electrical Statutes Amendment Act, 1990.

MR. DEPUTY SPEAKER: The hon. Member for Stony Plain.

MR. WOLOSHYN: Thank you, Mr. Speaker. As has been mentioned here in the last two debates on this Bill, the points made still stand. I'm rather disappointed that the hon. minister did not take this opportunity to bring forth an amendment or two, but I suppose time will tell and maybe he'll come to his senses and do it later on. The intent of the Bill was to rectify a practice – and I stress "practice" as opposed to a wrongdoing – that went on for years and years in this province, and that was of power companies, whether they be municipally owned or privately owned, running around and intruding onto private property on the overhead basis. Then, as I understand it, some person or persons chose to question this practice. Now, in an overreaction to the fact that this practice was deemed to be a trespass, the government, instead of taking what would be the proper initiative and deciding how to construct these power lines so that they would not intrude into private airspace and to grandfather the Bill in as it were so as to protect the companies and in the end result the ratepayers from any kind of undue litigation and hence changing the rates upward – to grandfather the clause to legalize the existing intrusions, and then to use

*see page 1406, right col., para. 2, lines 9 and 10

some common sense and to create legislation that would be fair to the power companies so they would not be inhibited in their distribution and at the same time to be fair to the owners of the properties which were being intruded upon.

I find it very difficult to accept the fact that three statutes are amended by this particular piece of legislation and each amendment that comes through specifies clearly: no consultation, no compensation. I think that is totally unacceptable. I would very strongly urge that the minister reconsider, first of all, the fact that this Bill does not meet the intent that he had set out to do. It, in fact, legalizes a practice that should never have been permitted in the first instance. As he is fully aware, when you have a power transmission line of any significance that is normally placed on a private property, at any event, or in a utility corridor, and in either one of those generally, it's set up in such a way that for the most part it doesn't intrude.

As he's also fully aware, the need – and I stress "the need" – for the crossarms of the size that the minister has indicated would be used in this particular level of transmission are actually not needed at all. You don't need them on the poles. So for the life of me I can't understand how the minister would not come to his senses and change this legislation. I certainly can't understand how anybody in their right mind would support a blatant intrusion into people's civil rights without consultation and without compensation.

On that I rest my case, Mr. Speaker. Thank you.

MR. DEPUTY SPEAKER: The hon. Member for Westlock-Sturgeon.

MR. TAYLOR: I'm sorry. I wanted to get in, because I would assume that when the member gets up, that closes debate. But I may be wrong. If that's the case, I'll yield . . .

MR. DEPUTY SPEAKER: Your assumption is correct, hon. member.

MR. TAYLOR: It is correct? Okay. Because if it were not, then I was prepared to yield the floor to the hon. minister. But then if it means foreclosing on myself, I won't.

First of all, I want to underscore what the Member for Stony Plain has said. I realize it's a difficult problem, particularly in the cities. It's easy enough for the huge rights-of-way that we require r u r a l l y to bring in power lines so that they will not overlap, but you take power lines going down an alley in the city that's only 20 or 25 feet wide, and we have a bit of a problem. But I think it's not a problem that's insurmountable or impossible, and I would like to underscore the request of the member that they may be suspended for the summer – after all, those poles have been sticking out there now since 1905, and I don't see the rush – and see whether or not a committee of surface rights owners, urban and rural, couldn't work a compromise of some sort.

Secondly, I wanted to bring up something that I overlooked when I read the thing the first time. It's very rare that I do this, Mr. Speaker; I usually never miss a thing. Section 13 has been amended here. It's just a slight thing to refer to: instead of "14," "14(1)." But in it it says: "A company may . . . in its opinion . . ."

MR. ORMAN: A point of order, Mr. Speaker.

MR. DEPUTY SPEAKER: The hon. minister is raising a point of order.

MR. ORMAN: We are speaking to the principle. We are in third reading, Mr. Speaker; we did committee last night. I'd like to point that out to the hon. Member for Westlock-Sturgeon.

MR. TAYLOR: I will alter it so it only speaks to principle. The only reason I was getting more specific was I wasn't sure there were that many principles over there, but now that he has brought it to my attention, there is a principle mentioned here that

> A company may . . . cut down any trees or brush that in its opinion . . .

In its opinion.

> . . . obstruct the running of survey lines . . . or equipment of the company.

Well, survey lines are something you take through the air.

Recently in my constituency, not this company or the power company but another company in the utility line cut down 150 trees, and afterwards they said "Sorry." You know, it helped them run the line straight through. Well, a survey line, Mr. Speaker, is not the type of thing that any company should be empowered on private property to cut down trees, especially in this day of environment and tree-huggers. I come from a country where there are dogs 12 and 15 years old who have never seen a tree. Here we are allowing the power company "in its opinion" to cut down for "survey lines," which are no necessity, or "equipment of the company." Does that mean that if the company has a snowmobile or four-wheel drive to try out on your property they're going to cut down the trees? Surely to gosh there should be an appeal or something around that. This is the principle I'm talking about. It's a further principle that the hon. Member for Stony Plain brought out: transgressing on private property without permission. Just because the Almighty and the government gave the utility company the right to build doesn't give them the right to not only hang up their equipment over the top of your property but worse still, cut down your trees in their opinion; not arbitrated, not mediated: in their opinion.

So I submit that it's a bad Bill, Mr. Speaker, a very bad Bill. I'm torn between asking him to withdraw it out of common sense and to do good for the public or leave it there and let it hang him in the next election.

MR. DEPUTY SPEAKER: The hon. Minister of Energy, to conclude debate.

MR. ORMAN: Mr. Speaker, we talked yesterday in committee about this Bill, and there's no question; I don't think anybody is comfortable in the understanding that this Bill is taking away airspace without negotiation and without consultation. Now, on a principle point of view, I don't think anyone in here who is here to protect the best interests of the people of Alberta would argue with that. That's not the purpose of us bringing forward this amendment whatsoever. The purpose of bringing forward this amendment is that living in the 20th and 21st centuries, we must realize that we are in an industrialized environment here. We use power, and we've agreed that we will transmit power through transmission lines above ground.

Now, we talked about that in rural Alberta there are circumstances, Mr. Speaker, where you could move the utility poles to the centre of the public right-of-way or you could move them further away from the private land. You could do that and protect the airspace; there would be no intrusion of airspace by doing that. But then you run into a world of problems. As the minister of transportation so appropriately pointed out to me,

the closer you move these power poles to the highways and the byways of this province, you create problems, firstly, a hazard with regard to car accidents. The second thing you do is you create the problem of farmers moving their implements down the road, and you have the overhang onto the roadways. You create a problem there, and we recognize that. So what you have to do is look at the situation and come up with what makes the most sense. You cannot go back in time and move all of the existing power poles. In new subdivisions the power poles are put up before the owners build their houses sometimes. How can you consult and get the consent? And if you got the consent of one house and you go to the neighbour and he doesn't give you consent and so on and so forth down the lane, Mr. Speaker, how are we going to continue our development?

So what do we do? Well, you retrench, and you come back, and you look at a court case that said you have to bring forward legislation that deals with this issue that conforms with the Telecommunications Act – the current Act; the forerunner was the AGT Act – and confirm in legislation what has, in fact, been the practice since we've been putting power poles up in this province. I accede to the suggestions from the Member for Stony Plain and the Member for Westlock-Sturgeon that it's not perfect. But what we have to do is do the best we possibly can under the circumstances. We have to find a compromise. That's what legislation and legislators are all about. The public good is here. We believe firmly that the public good is how we have drafted this legislation to deal with this current issue. I've heard the debate for the last couple of days, and there have been no real, substantial, or realistic ways in which we can possibly deal with this. I wish there were other ways. Unfortunately, there aren't. This is the best way.

I think the Member for Three Hills has outlined that in her original remarks in bringing forward an amendment, trying to get the thing closer to the middle of the road. That's what we've done with the amendment, and I think it's made it better legislation. It strengthens this legislation and at the same time addresses the concerns and deals with the overall public good. That's all we're trying to do, Mr. Speaker. That's the essence of the legislation.

AN HON. MEMBER: Question.

MR. DEPUTY SPEAKER: The question having been called, the hon. Minister of Energy has moved third reading of Bill 9, Electrical Statutes Amendment Act, 1990. All those in favour, please say aye.

SOME HON. MEMBERS: Aye.

MR. DEPUTY SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

MR. DEPUTY SPEAKER: Carried.

[Several members rose calling for a division. The division bell was rung]

[Eight minutes having elapsed, the House divided]

For the motion:

Ady	Elliott	Nelson
Anderson	Evans	Oldring
Black	Fjordbotten	Orman
Bogle	Horsman	Osterman
Bradley	Hyland	Payne
Brassard	Johnston	Severtson
Calahasen	Jonson	Shrake
Cherry	Laing, B.	Sparrow
Clegg	Lund	Tannas
Day	Moore	Thurber
Drobot	Musgrove	Trynchy

Against the motion:

Chumir	Hawkesworth	Sigurdson
Gagnon	McEachern	Taylor
Gibeault	Roberts	Woloshyn

Totals: Ayes – 33 Noes – 9

[Motion carried; Bill 9 read a third time]

Bill 11
Petroleum Incentives Program Amendment Act, 1990

MR. ORMAN: Mr. Speaker, I move third reading of Bill 11, the Petroleum Incentives Program Amendment Act, 1990.

Mr. Speaker, I'd like to make a few comments if I could. You may recall that in committee study the Official Opposition had indicated to me that they wanted me to go back and do some research and advise them as to why we went into the Alberta petroleum incentives program, and I know why they did it. They just wanted to aggravate me, because there is nothing more aggravating than to go back to 1980 and look at the rationale for the national energy program and the federal petroleum incentives program. I am absolutely surprised. Well, we even have some Liberals in here, and if they're not ashamed at the end of my remarks, Mr. Speaker, they have no humility whatsoever.

The national energy program was a program that was foisted on western Canada in October of 1980, and if there has ever been, in the history of this country, a rallying point for western sentiment against a central government, it has been the national energy program foisted on us by the Liberals of this country. Mr. Speaker, we know why there aren't many Liberals in this Assembly or in any Assemblies in western Canada. It's the national energy program. The purpose of the national energy program was simple. It was an issue of control. They wanted to change the fiscal balance of Confederation, and they wanted to increase federal control of energy resources from the provinces.

What was the means, Mr. Speaker? Well, the major means of the federal government is taxation, so they moved in on punitive taxation: the incremental oil revenue tax, the petroleum compensation charges, the natural gas and gas liquid tax, the revered PGRT, Mr. Speaker. If there are four letters that are associated with the former Prime Minister of this country, Trudeau, it's PGRT.

MR. DEPUTY SPEAKER: Order please. The hon. Member for Westlock-Sturgeon is rising on a point of order.

MR. TAYLOR: Well, borrowing a page from the hon. member, I think he should try to stick to the topic, Mr. Speaker. The topic is the transfer of the funds to the General Revenue Fund, and reading his father's old speech is not good enough, Mr. Speaker. [interjections]

MR. DEPUTY SPEAKER: Order please.

MR. TAYLOR: But may I say, Mr. Speaker . . .

MR. DEPUTY SPEAKER: Order please. You'll have your opportunity.

MR. TAYLOR: Well, I wish you'd ask him to join us in a glass of champagne.

MR. DEPUTY SPEAKER: The hon. Member for Westlock-Sturgeon will have ample opportunity to debate this subject when the hon. minister is finished.

MR. ORMAN: Mr. Speaker, I am speaking to the principles. The reasons we went into the Alberta petroleum incentives program are the reasons I'm giving him. I haven't even begun, Mr. Speaker, and we already have the Liberals jumping up calling points of order because they don't want to hear the truth. I think I called that in my opening remarks. Here they are, jumping already.

What was the second point? Well, the second move by the Liberals in government in Ottawa at the time was to restrict domestic prices by keeping them below the world markets, by going to a formula rather than a market-based approach. A formula, Mr. Speaker: this was the most insidious element of the national energy program.

Mr. Speaker, I could tell you that it gets worse. Through the discriminatory grant that the federal government set up, they sought to control the level of development in this country, take it away from the provinces, using their revenue, and put it on federal lands to develop their property. If there's anything more insulting than that that's happened in Confederation, I'd really like to hear it. The PIP replaced a tax-based incentive system or depletion allowance – this is the federal petroleum incentives program – and it shifted development from the provinces to the federal lands where the federal government controlled the mineral rights. The net result, and the most inciting to the provinces, was new taxes and revenue grabs from provincial lands to fill the coffers to create incentives on federal lands.

Mr. Speaker, Albertans were, in effect, funding a program that lured activity away from the provinces into the arctic lands. Now, you know one of the companies that was lured away? Lochiel Exploration. I don't know if that rings a bell with you, Mr. Speaker, but it rings a bell with me. Using provincial royalty revenue grabbed by the federal government to attract Alberta based companies such as Lochiel, onto federal lands.

AN HON. MEMBER: Where's Lochiel now?

MR. ORMAN: I'm not sure where Lochiel is, Mr. Speaker.

The federal petroleum incentives program paid a maximum of 80 percent for exploration on Canada lands compared to a level of 35 percent on provincial lands, and they got the money from the provincial governments, from the provincial revenues – the industry and the royalties – and created a system where you've got an 80 percent grant on federal lands and 35 percent on Alberta lands. Unbelievable, Mr. Speaker. Clearly, this was one of the most deceitful acts in the history of Confederation. Now, as a former Premier said, and I quote: "Ottawa . . . without negotiations . . . simply walked into our home and occupied the living room." I don't know how you put it any more succinctly than what happened, Mr. Speaker.

Now, Alberta was faced with three options. They want to know why we got into the Alberta petroleum incentives program? Listen up. We had three options. First, we could knuckle under to Trudeau and his gang, and I think one of his gang is soon to be the new Leader of the Liberal Party. That'll tickle westerners to death, Mr. Speaker. We could knuckle under to the federal intrusion onto provincial lands and have Ottawa manage the pace of development in the province of Alberta: just leave it up to them, Mr. Speaker; I know they'll have the best interests of Alberta at heart. That was the one option.

The second option: we could fight them to the ground. The third option: to negotiate a settlement. Well, fight them to the ground would have been, I guess, everything else being equal, the western way to do it: stand up for what you believe is right. But unfortunately, it was risky in terms of the constitutional confrontation that it created, and it was also at a time when investor confidence was very, very low. Are we surprised investor confidence was very low, Mr. Speaker? We were being terrorized by Ottawa through Canadian ownership rules as well as an onerous and discriminatory taxation regime.

Option number three was to settle and negotiate. We were forced into an option that we did not want to be in, but we took it for the reasons I've indicated. We didn't want to precipitate a constitutional confrontation, and the state of the industry was fragile at the particular time, Mr. Speaker, as we all know. One of the most depressing periods in the history of this province was the period between '80 and '85 as a result of the national energy program.

So we moved in and tried to negotiate a settlement. On September 1, 1981, there was a memorandum of understanding on pricing and the decision by Alberta to protect its constitutional jurisdiction by establishing a provincially administered petroleum incentives program. Mr. Speaker, ownership and management of resources was the most important issue to Albertans, and it is no different then than it is today. We are facing it on another front with regard to environmental screening in areas that are potentially as damaging on a jurisdictional basis as the issue of the national energy program. Now, hon. members won't be surprised that the Liberal hacks that designed the national energy program are senior bureaucrats in Ottawa. You know, I just wish our federal Conservative members in Ottawa would understand that.

Mr. Speaker, mercifully – mercifully – five years later, 1985, the Western Accord was signed: the end of the national energy program. I could tell you: $23 billion later, spent on the Alberta petroleum incentives program to mitigate the impact of a federal program that drained between $60 billion and $80 billion out of the province of Alberta.

Now, these cats over here, these ladies and gentlemen on this side of the House sit here and talk about balancing the budget and about areas that we could control our spending. Wouldn't it be nice to have the $2.3 billion, Mr. Speaker, through APIP, not to mention $80 billion that was siphoned away by the Pierre Trudeaus of this world? Well, that is why we had the petroleum incentives program, and I'm not . . .

MR. DEPUTY SPEAKER: The Member for Calgary-Buffalo is rising on a point of order.

MR. CHUMIR: Would the minister entertain a question on . . . I'd like to ask why it is that Alberta paid the $2.3 billion when Manitoba, Saskatchewan, and B.C. got the federal government

to pay. [interjections] I can't believe the disorder on the other side of the House, Mr. Speaker.

MR. DEPUTY SPEAKER: The member did ask his question, and I assume the hon. minister will answer it.

MR. CHUMIR: The question is: why is it that the province of Alberta paid the APIP grants itself, $2.3 billion, when the federal government paid for Saskatchewan, Manitoba, and B.C.? Why is it that we ended up paying and the other provinces didn't? Why didn't the province get the federal government to pay?

MR. ORMAN: Mr. Speaker, we have a Liberal who – we had another one jump up. I guess I was right in my prognostication at the beginning of my remarks. Now, it's fine for them to sit there. It's the Liberal way. Nobody on this side of the House is surprised. The Liberal way is: let's use our hindsight because it's an exact science. I've got 20-20 vision with my hindsight; we all have that. At the time, Manitoba and Saskatchewan did not view the constitutional issue as importantly nor did they take it as dear to their hearts as Albertans did. And Albertans had a lot more to lose. We had 80 to 85 percent of the production of the hydrocarbons in this province. It's not a big issue in Manitoba. They don't produce a heck of a lot of oil and gas in Manitoba, and Saskatchewan at the time was pretty much the same case. They didn't have a lot to lose. The stakes weren't as big for them. The stakes were big for Albertans.

Now, we can look back today and say, "Well, we could have allowed the feds to pay for the national energy program, for APIP." I could tell you one thing, Mr. Speaker, with my hindsight and my experience since then: we would have totally eroded our constitutional responsibilities for the development and the ownership of our energy resources, and who knows what other areas of jurisdictional erosion we could have faced if we had knuckled under. So it's fine for them to look back and say, "Yeah, jeez; you know, nothing's really changed." Well, I take exception to that. And we will stand by the principle. We stood by the principle in 1980, we stood by the principle in 1985 when we signed the agreement that led to the end of the national energy program, and I could tell you we would do the same thing today. Albertans feel very strongly about their jurisdictional responsibilities. We do not want any erosion of our constitutional rights, those rights we fought hard for and protect so dearly.

MR. DEPUTY SPEAKER: The hon. Member for Calgary-Buffalo.

MR. CHUMIR: Thank you, Mr. Speaker. The last time I looked at the NEP the most memorable picture was that of Premier Lougheed clinking champagne glasses with Mr. Lalonde.

MR. PAYNE: That was not the NEP.

MR. JOHNSTON: That's how little you know, Sheldon.

MR. PAYNE: That's the pricing agreement, not the NEP, and you darn well know it.

MR. DEPUTY SPEAKER: Order please.

MR. CHUMIR: The real issue is not the NEP; it's the establishment of APIP and why it is that our provincial government got stuck paying this $2.3 billion itself when the federal government established its own PIP program to pay the same 30 percent grants to the other producing provinces such as Saskatchewan, B.C., and Manitoba. It's probably not far fetched to suggest it's an attitude of arrogance, that attitude of we're going to go it ourselves because we have endless sums of money as if we just won the lottery: the nabob. It's the same thing that's prevented the government from going after forestry grants and getting our money under the Canada Assistance Plan for legal aid. Now, of course, the government wishes we had the money, and they're now going cap in hand attempting to get $539 million, a mere pittance when they blew $2.3 billion.

Now, let's make it clear. It's not an issue of whether we did or didn't have these grants to oil companies, PIP grants, because the federal government established those and that was part of their scheme. The real issue was who paid, who negotiated on our behalf, and were they able to negotiate a deal like the other provinces did so that the federal government paid? It reminds me of the smooth manner in which the provincial government handled our oil and gas price deregulation in 1985 when Alberta took the whole of the burden after nearly a decade of providing oil and gas to the rest of the country at less than market value.

What we see are the great, great managers of this province that have gotten us into the $10 billion debt fix. First we provide lower than world price oil and gas to the rest of the country, and then we go on and pay $2.3 billion in APIP grants when the federal government is paying the PIP grants for the other provinces of Saskatchewan, B.C., and Manitoba, and then the coup de grace, the end of it all, we go and deregulate, and we take the full burden of reduced prices. Some negotiators. The minister refers to hindsight. Well, what we have is $2.3 billion of bad hindsight. I'd say that the government was looking up their behinds when Saskatchewan, Manitoba, and B.C. had the moxie to get the federal government to pay the freight and our government didn't. [interjections] Our government didn't and that's the reality. [interjections] Well, that's okay. It's about time, after four years of the reverse, it's about time, Jim. So that's the problem with this program: the bad negotiation and judgment of this government cost us $2.3 billion.

MR. DEPUTY SPEAKER: The hon. Member for Edmonton-Kingsway.

MR. McEACHERN: Thank you, Mr. Speaker. The rather innocent question was really asking the minister to look back at the dollars spent and the programs and see if those dollars were worth spending. There are sort of two aspects to that: one, why did Alberta do it as opposed to letting the feds pay as they did in the other provinces and on the frontier? The minister did partly answer that, but a second important question really was: was it a good program, regardless of which government paid for it? Was it a good idea for government to put that kind of money into those kinds of things? He did not really address that because he got carried away on the politics of it. Well, if we're going to have some fun with the politics of it, I can't resist throwing in a few things, Mr. Speaker.

Perhaps the minister should have gone back a little further than 1980. Perhaps he should have gone back to the early '70s and taken a look at the fact that when OPEC first raised the price of oil in the world, Peter Lougheed, the then-Premier of this province, was prepared to sit on his duff and watch the oil companies pocket some $8 a barrel because the price just across the border went to $11.50 a barrel almost overnight. It was in a very short period of time.

MR. JOHNSTON: That was federal excise tax. That wasn't a provincial tax.

MR. McEACHERN: Oh, yeah. It was before the tax came and Ottawa Trudeau and Macdonald saw this $8 a barrel heading off with the oil companies, most of them multinationals that did not reside in this country, and they said: "Hey, just a minute. That's Canadian oil. We'd better get some of that," and that's when the fight started. That's when the fight started. The Prime Minister and Macdonald put on an export tax. Now, Peter Lougheed said: "That's ridiculous. This is our gas and our oil, and here you are taxing our products."

MR. JOHNSTON: You're right. We agree on that.

MR. McEACHERN: All right. But Pierre Trudeau said to Peter Lougheed, "Well, Peter, don't get too upset. We'll share it with you," and it was Peter who said, "Oh, no. None of that. This is our jurisdiction. You're encroaching." So he wouldn't compromise and share it and so . . .

MR. JOHNSTON: That's right, we wouldn't.

MR. McEACHERN: That's right. And so the federal government said, "If you're going to be like that, then we're going to say that provincial royalties are not tax deductible when companies go to pay their tax." So then we got into that rather stupid fight between Ottawa and Alberta that did nobody any good, quite frankly. It did not do Albertans any good. It did win Pierre Trudeau an election in Ontario in 1980. It did win Peter Lougheed huge mandates in this province so that he could ignore local issues and stifle local debate and democracy, and it was a stupid fight by a couple of big egotists that played this country for a bunch of suckers. [interjections] That's exactly what happened. It was tit for tat back and forth, and we remember the chinking of the glasses. [interjection] Mr. Speaker, would you shut this guy up? I've got the floor, and I'm tired of his kind of mindless, senseless interference.

MR. DEPUTY SPEAKER: Order. Order in the whole House. The Chair is just calling for order in the whole House.

MR. McEACHERN: Thank you.

Now, this fight went on so long that the Alberta government just couldn't wait to get their federal cronies into Ottawa so they could get rid of the national energy program. I'd like to just put a couple of things straight on the record about the national energy program. The Premier and a few people on that side of the House like to say that our party supported it.

SOME HON. MEMBERS: Agreed.

MR. McEACHERN: No. Not true. If you take the national energy program . . . [interjections]

MR. DEPUTY SPEAKER: Order please.

MR. McEACHERN: If you take the national energy program in its entirety, there were about 13 or so different Bills and different facets of it. We did not support the majority of them. We did support a couple of them, okay?

MR. JOHNSTON: Ask Roy Romanow.

MR. McEACHERN: You can speak after I'm finished.

AN HON. MEMBER: Check the record.

MR. DEPUTY SPEAKER: Order please. Order.

MR. McEACHERN: Check the record. We did support some aspects of it, and I'm not ashamed of that. I'll state one of them which I'm quite pleased that we supported, and that was the idea that we should have some extra incentives for Canadian oil companies to enhance Canadian ownership of the oil industry. That made a lot of sense, and in fact over the late '70s and early '80s the Canadian ownership of the oil industry went up considerably, up over 50 percent, around 60 percent at one stage. Since your federal cousins the Tories got in power, it's gone back down to 35 percent because Canada is open for business. So we are losing Canadian oil companies to foreign oil companies at a crazy rate.

Furthermore, the deregulation in 1985 was a catastrophic mistake for this province, and I do not understand why the Premier thinks that what's good for Imperial Oil is automatically good for us, the owners of the gas and oil in this province. I'll explain what I mean. It was the major oil companies and OPEC that created the artificial shortages of 1973 and 1979 to rook the people of the western world into paying higher oil prices. Okay? It was those same people that in 1985 decided that it was time for the prices to be lowered.

I did mention this once before in the House, but I'll tell it again. During the federal election, about three weeks before the 1988 election date of November 21, I heard this conversation on CBC radio. I believe it was Ruth Anderson phoned up some guy called John at Richardson Greenshields and said, "Hi, John, what's going on today with the stock market?" He said, "Oh, you mean you haven't heard?" "Well, heard what?" she said. He said, "Yesterday the Freedom of Information Bill in the United States was used to force the release of a document which showed that Imperial Oil" and two other companies that they named – I can't remember which they were because I wasn't really listening all that carefully to that stage. But he said, "conspired" and immediately, of course, I started to listen a little more carefully. "Conspired," was the word he used, to force the release of a document showing that the United States and three big oil companies conspired with Saudi Arabia to lower the price of oil to something in the neighbourhood of $8 a barrel. The idea being . . .

AN HON. MEMBER: Free market.

MR. McEACHERN: No. I've got to say that I thought it was rather a strange comment, and I spent a little time analyzing it. Perhaps I could just give the analysis.

AN HON. MEMBER: What's that got to do with Bill 11?

MR. McEACHERN: Well, we're talking national energy programs, aren't we?

Anyway, if you look at it this way, the Americans are net importers of oil, so it's in their interest to have a low price for oil. That's why they might get involved in something like that. They were just coming off four years of a borrowing spree that took them from being the biggest creditor nation in the world to the biggest debtor nation in the world, and they were looking for something that would give their economy a boost so they wouldn't slide into the recession that they were expecting or

even a depression. So that's why the United States government would do it. They would be prepared to let some of their own oil exploration companies go down the tube. It wouldn't matter to them. It wouldn't bother the United States too much because they'd have cheap oil for a large consuming population.

Meanwhile, you have to say, "Well, why would Saudi Arabia do it?" Pretty obvious. Saudi Arabia has the cheapest and best oil in the world. So it doesn't take a genius to decide that if you can't hold the price at $32 U.S. a barrel where you would like it, you will flood the market for a little while and put some of your competitors out of business. That's exactly what Saudi Arabia's agenda was, and I don't really blame them. That's your free market for you, that you guys like to talk about.

Meanwhile, what do Imperial Oil and the other two big integrated companies have at stake in it? They had already started to cut back their exploration side and were in the process . . .

MR. DEPUTY SPEAKER: Order, please, hon. member. The Chair has been listening for some time to try to relate what the hon. member is saying to this Bill that is before us. We've now gone about five minutes or so on this. If the member would like to wind up and bring those critical points to bear on this Bill.

MR. McEACHERN: I'm sorry I was taking perhaps longer than I intended. Well, this Bill is winding up the Alberta petroleum incentive program, and that's all part of this oil picture that we're painting. But I'll move it along fairly quickly. It was the minister that started it. I'd not intended to make this speech tonight.

In any case, the big integrated companies in 1985, when this Treasurer lost 3 and a half billion dollars in oil revenues, Imperial Oil laughed all the way to the bank. They made a killing on the downstream side, Mr. Speaker. Yet the Premier of this province still thinks that what's good for Imperial Oil is somehow good for Albertans, who own the gas and oil industry of this province. It just doesn't make any sense. The deregulation, the Western Accord proved to be disastrous for this province, and to compound it, we've gone into a free trade deal that means we will never regain control of our oil industry in this province.

MR. PAYNE: Tonight we've listened to two of our Liberal colleagues, one from Calgary-Buffalo and the other from Westlock-Sturgeon, who have attempted to tell us that the much publicized champagne toast between Premier Lougheed and Prime Minister Trudeau was associated somehow with the national energy program. Mr. Speaker, that distortion of history demeans this Assembly, it demeans this province, and above all it demeans the good name of one of the finest patriots this province has ever known.

For the record, the national energy program was in fact nothing more, nothing less than a federal budget developed with no input from Alberta. For the record, the national energy program was developed by bureaucrats and federal politicians who regarded Alberta and her resources as a limitless source of revenue to finance the ambitions of Marc Lalonde and a whole bunch of other big-spending federal Liberal ministers. Let it be said, Mr. Speaker, without question that the NEP was the most obscene federal rape of a province's resources since Confederation.

Finally, Mr. Speaker, for the record, that champagne toast concluded negotiations with respect to energy pricing long after the NEP was passed in the Commons. It was a deal, I might add, incidentally, that was very skillfully negotiated, and it protected the interests of Alberta as much as they could possibly have been protected in those circumstances.

Now, tonight, in supporting third reading of Bill 11, I suggest that our Liberal and NDP colleagues consider joining us in the lounge later on to toast this last vestige of the NEP.

Ladies and gentlemen of the House, let us toast sometime tonight the bitter, bitter end of the national energy program.

MR. TAYLOR: My hon. colleagues wanted to lead us in a chorus of *O Canada,* but then for sure we'd know that the hon. Member for Calgary-Fish Creek had put a little bit more than soda pop in the drink. I was surprised to get an invitation from the hon. Member for Calgary-Fish Creek to have a drink of champagne with him, because I must confess I support Bill 11 too, but for the opposite reasons of everyone else. I noticed that besides drinking champagne, he mentioned that great former Premier, Mr. Lougheed. But didn't it occur to the members opposite here that he could be just as mistaken in fighting the NEP as he has been in supporting Meech Lake?

Now, to go on a bit on the question of the PGRT and taxes. I think as it stands, Mr. Speaker, just to correct a few impressions left by the hon. Minister of Energy, who started all this. Somebody said that he put it out, but I think he threw it out or threw it up, but the fact is that reading that old speech from the 1980s, I get a little tired of this, hearing how badly Alberta's been done by. As a matter of fact, every province I've been in has a big reason why they should secede. They're all convinced that they contributed more money, more brains, and more talent to Confederation than any of the other provinces, and I suppose there's a certain amount of truth in that. But I think that we Albertans look a little sick a lot of times when we talk about the oil business, for instance, and how much the federal government took out.

For instance, from 1948 to this day, every time you drill a foot of wildcat well in Alberta, you write it off on your federal income taxes. As a matter of fact, until the early 1970s, every dollar of bonus – when Esso paid, say, $30 million, for instance, for a couple of townships out here west of Stony Plain, that was a write-off against federal income taxes. So in other words, the Canadian government, albeit for their own, maybe selfish reasons, did their best to support the oil industry until the prices took off, and then this government has the nerve to argue that they want some of the money back.

What bothers me in the PGRT, which was the petroleum and gas revenue tax, Mr. Speaker – which was quite a justified grab for dollars by the federal government. Maybe not as much as we want to give up. I don't like paying taxes either. I think the hon. gentlemen and ladies over there should pay all the taxes and me nothing, because I contribute more. Nevertheless, the fact is that we all have to pay taxes. Alberta was having to pay taxes after years of having special tax write-offs. No other industry in Canada had for as long a period a 100 percent write-off for wildcat ventures. If you went into a store or a Maytag factory or even a mining company, you couldn't write it off for 100 percent, not for all the years from '48 on, or the bonuses that you pay.

The other thing when they talk about the PGRT. I operated on both sides of the line at that time, and the U.S. had an excess profits tax which was $25 a barrel, which was $7 more a barrel that I paid in Wyoming to the U.S. government for privately produced oil than PGRT charged here. And here's the crux, and this is what I challenge the hon. members on now: if you look at – and I'm sure the hon. Treasurer knows this because he

is such a slippery, teflon type of man when it comes to economics. But he knows this; wouldn't he admit that the federal government today, through the medium of excise tax on gasoline, takes out over double what the old government did under the PGRT, in some cases nearly three times. In other words, Mulroney, while sitting there pretending to pat you on the back, had a knife there and put it under your toga all the time. In other words, the Tory government down there, although they took the PGRT, turned around in the vacuum created and replaced it with an excise tax on gasoline. And you've said that yourself, but you act as if you discovered it, as if there was a star in the east. But the point is that the only star in the east was a man called Mulroney, and they are now taking more out of a barrel of oil produced in Alberta after it's refined than was ever taken out before.

Now, I just wanted to make those facts known. There is an NEP in Canada today. It's a very strong one, and Alberta is being shafted. I don't like to use sexual terms because the Speaker has ruled it out, but if there is such a thing as getting in bed with the wrong people, we did it when we elected that Ottawa government. And the NEP that now takes money out of Alberta in a percentagewise is far in excess of what any old government ever thought or dared to do.

Thanks.

MR. JOHNSTON: NEP royalties were not deductible, Nick.

MR. TAYLOR: You said that yourself. [interjection] Yeah, but they're taking federal tax, 35 cents.

MR. DEPUTY SPEAKER: The hon. Minister of Energy wishes to wind up debate?

MR. ORMAN: Yes, Mr. Speaker. I think just briefly in closing debate, firstly we went into the Alberta petroleum incentives program because we wanted to jealously protect our constitutional rights and responsibilities that were passed on to the provinces at the time Alberta came into Confederation. The second issue was because we wanted to control the design of a program that was going to be fundamental to the long-term health of the oil and gas industry in the province of Alberta. Now, we know that Saskatchewan and Manitoba participated in the federal program, but I can tell you with all assurance that the reason Saskatchewan and Manitoba did not lose their jurisdictional responsibilities is because they were in the slipstream of the province of Alberta, and it was easy for them to allow Alberta to do the dirty work to protect ourselves against the Trudeau government.

Mr. Speaker, I can think of nine people who are having a good laugh today.

MR. JOHNSTON: Who would they be?

MR. ORMAN: Well, they are Lalonde and Trudeau, Pepin, MacEachen, Ouellet, Whelan, Munro, Kaplan, Bud Olson. Mr. Speaker, I know you remember them all well. Do you know why they're having a good laugh? Because the Liberals have the nerve to have a convention in the city of Calgary to elect their federal leader. Can you believe that? [interjections]

MR. DEPUTY SPEAKER: Order please. The hon. Minister of Energy has moved third reading of Bill 11, the Petroleum Incentives Program Amendment Act, 1990. All those in favour, please say aye.

HON. MEMBERS: Aye.

MR. DEPUTY SPEAKER: Opposed, please say no. Carried.

[Motion carried; Bill 11 read a third time]

head: Government Bills and Orders
Second Reading

Bill 30
Alberta Corporate Income Tax Amendment Act, 1990

MR. JOHNSTON: Mr. Speaker, I was so excited and engrossed by my colleague's speeches that time flew by. The memories are still causing tears in all our eyes.

AN HON. MEMBER: I'd like to send you a bill.

MR. JOHNSTON: I've got it.

He's right, of course; that was a disastrous time, and to this point we're attempting to correct and catch up with the vestigial economic impacts of the national energy program. Part of what we're trying to do in Bill 30, as a matter of fact, Mr. Speaker, is in part one of the lingering changes which we had to put in place at the time when all the economic rent was being captured by the federal government by the nondeductible petroleum and gas royalty tax, PGRT. Because this piece of legislation, Bill 30, the Alberta Corporate Income Tax Amendment Act, is in fact an adjustment to the Alberta royalty tax credit plan, an adjustment which was announced in the budget, adjustments which do a couple of things: adjust the price sensitivity level of the total royalties deductible by the companies employed in the oil and gas sector, and secondly, deal with the so-called double-dipping, associated companies rule, to ensure that only one corporation has a right to the maximum royalty tax credit.

That's the major item that's reflected in this piece of legislation, Mr. Speaker, the Alberta Corporate Income Tax Amendment Act, but I would mention as well that the Act does introduce for legislative purposes, again flowing from the budget, the financial institutions capital tax, section 33 of the legislation more specifically. It brings into play the financial institutions capital tax, a tax which we impose upon the capital of large financial institutions operating in this province.

[Mr. Jonson in the Chair]

I should say as well, Mr. Speaker – I'm sure many members are getting tired of the reason for the legislation, but again, this time with respect to the corporate tax Act, we are adjusting the Corporate Income Tax Act to align it and harmonize it with the federal income tax legislation so that our legislation essentially parallels theirs in those sections so a company is aware that our Act is as contemporary as the federal Act when deciding on its own corporate tax liability. However, I do point out that Alberta does have its own corporate tax collection. This legislation is much different in the sense that we have our own administration, and this legislation's applied directly by the province, as opposed to the personal income tax legislation wherein we are essentially bound by a tax-sharing agreement conducting the actions and dealing with the way in which the province collects its provincial income tax. This is done directly, and it's because we do have our own direct corporate income tax operation, the corporate tax administration – which, by the way, celebrated its 10th anniversary just a week back. It is because

of that that we can administer the Alberta royalty tax credit on a deductibility basis against corporate income tax. It allows the royalty tax credit to flow to the individuals. It's not at all related to the tax system, but because we have the administration in place, we use the tax system to administer the royalty tax credit. So it does give us that flexibility as well. I should note, Mr. Speaker, that there are a series of adjustments to the legislation, which in fact bring this legislation in line with the federal legislation.

So, Mr. Speaker, those are the major issues. Members are well aware of items which were reflected in the legislation. Members will recall the budget debate on the royalty tax credit, and that of course has taken place. Members will recall the adjustment to the financial institutions capital tax. That's reflected in this piece of legislation, and of course there is a provision dealing with corporate changes as well, which again are also in the budget.

So, Mr. Speaker, this piece of legislation, although large, probably focuses on two major principles, and the other lot of pages is directed to administrative changes.

Mr. Speaker, I move second reading of Bill 30.

MR. ACTING DEPUTY SPEAKER: The Member for Calgary-Mountain View.

MR. HAWKESWORTH: Thank you, Mr. Speaker. You know, the Provincial Treasurer from time to time launches off into the stratosphere in terms of rhetoric, and I'm glad to see tonight that sometimes in going into the stratosphere, he lands back on the ground.

I notice that a number of these changes that are being implemented to legislation through Bill 30 are a result of problems that we've brought to the Provincial Treasurer's attention in the past, areas that we felt needed to be dealt with and needed to be changed. So a number of them the Provincial Treasurer has already alluded to. It might bear repeating that changes to the royalty tax credit scheme in terms of closing the loopholes regarding the double-dipping into that program is something that we have long advocated as a necessary change. Due to whatever prompted the government initially to draft the legislation they did, it created some loopholes, and as I understand the legislation that is being brought forward tonight, some changes are being implemented to make sure the original intent is adhered to and is not just a backdoor way of bestowing benefits when they weren't intended. So by doing that, it's responding to one of the areas that we've brought to the Provincial Treasurer's attention in the past.

Another area that this Bill addresses. In the budget speech that the Provincial Treasurer tabled earlier, some months ago, in this Assembly, he announced that there would be changes to the small business tax rate by reducing the small business deduction from 10 points to 9 points. As I understand the figures that he provided us on budget night, a 10 point deduction for small business provided about $150 million in assistance to small business in the 1988 tax year. By reducing it from 10 to 9 percent, as announced in the budget, this small change is going to add on or pass on a cost to small business of somewhere in the neighbourhood of $15 million. It's not one of those areas that the Official Opposition has been advocating for in terms of changes to the small business rate. The Provincial Treasurer stated on budget night that he felt that small business can afford this change. I hope he's right, but small business in many cases is a marginal effort at best, and this change, albeit perhaps not a major one for many small businesses, is still adding costs to their cost of doing business that some of them are perhaps going to have some difficulty absorbing.

As well, Mr. Speaker, this Bill 30 implements a new tax, a tax that hasn't previously been around in the province of Alberta, although it has been implemented in virtually every other province in Canada. I was quite interested personally in making note of this change, making note of this principle within Bill 30, because it was not even a year ago that I suggested to the Provincial Treasurer that he examine a corporate capital tax on large financial institutions as a means of both making the tax system more fair and finding some revenues that are badly needed by the provincial government at this particular time.

I noted at that time that all other provinces except Alberta had this general capital tax, and I was just curious as to why Alberta hadn't sort of joined other provincial governments in bringing in a tax that would generally be mainly targeted at central Canadian financial institutions. Well, Mr. Speaker, you would have thought that I was advocating Marxist-Leninist-socialist ideology with that suggestion. The Provincial Treasurer at the time said:

> Now we see the shape of the socialist policies across the way. They want to confiscate the opportunity of investment in this province,

and thought that this was the worst possible suggestion ever to be raised in the Alberta Legislature, to hear him describe it.

Well, as I said in my opening remarks, sometimes the Provincial Treasurer gets carried away with his rhetoric, and I'm pleased to see that sometimes after the rhetoric is past and he sees the cold light of day and smells the coffee and so on, he realizes that maybe some of these ideas and suggestions coming across the way from the Official Opposition are not such bad ideas after all and in fact might even help him if he accepts them in the constructive manner in which they're offered. So it gives me some personal satisfaction and pleasure to see that the Provincial Treasurer has implemented something that I think will make the tax system fairer, by asking large financial institutions to pay more of their fair share, and will help to raise some more taxes for a beleaguered provincial Treasury. So while I go off on certain occasions in criticizing the Provincial Treasurer when I think there are some areas that he needs to look at and consider that he has ignored or not considered, I will also say this: I'm pleased to see that when a positive suggestion is brought forward, from time to time he's willing to look at that and bring it in.

I guess as far as Bill 30 is concerned, Mr. Speaker, inasmuch as we've been advocating many of the principles from the Official Opposition benches for some considerable period of time, we're pleased to see them implemented, with the exception of the changes to the small business tax rates, although I do acknowledge what the Provincial Treasurer said on budget night, that it still leaves Alberta small business at an advantage compared to provinces such as British Columbia, Saskatchewan, and Ontario. I still would want to make it clear to all members of the Assembly that this is not a policy or a change that we've been advocating in this corner of the Legislature. So given that the bulk of the Bill seems to me to be headed in some positive directions, some long overdue directions, some directions that we've been suggesting to the Provincial Treasurer for some time, we're prepared certainly at second reading to offer our support to Bill 30 introduced this evening by the Provincial Treasurer.

MR. ACTING DEPUTY SPEAKER: The Member for Calgary-Buffalo.

MR. CHUMIR: Thank you, Mr. Speaker. I'd like to thank the Treasurer, who is the man who only yesterday afternoon was telling us how the federal government is taking a heck of a slug of money out of Alberta's pockets and transferring it to the federal Treasury in terms of the national gasoline tax.

We're going to support this piece of legislation, Mr. Speaker. We're strong supporters of the Alberta royalty tax credit regime. We've been critics of the way in which it's been managed and operated, critics of the tax leak through the double-dipping, the associated corporations rule. We feel that millions have been wasted as a result of that. We were also critics of the year-by-year nature of the regime, which prevented the industry from planning. Both of those concerns have now been resolved. We now have a five-year regime, and we think that's all to the good.

The second element of the legislation upon which we would comment is that of the instatement of the financial institutions capital tax. The fact that we're only now getting this tax serves particularly to highlight the nature of the revenue raising measures of this government since 1986 and particularly to point out how almost the total burden of those revenues has fallen on individuals not as income tax but through regressive measures such as medicare fees, the elimination of the rental tax credit, fuel taxes, licence fees, things of that nature. Meanwhile, for some years now virtually every province has levied a financial capital tax, and I think it's very much reflective of the philosophy of the government and of this Treasurer, who's had these budget problems since 1986, that it's only now, some five years later, years after the little guy's been hit and hit and hit, that the Treasurer has finally seen the light and levied this tax, of which we are supportive.

Thirdly, we share the concerns of the previous speaker with respect to the reduction in the small business rate deduction. We're concerned. We understand and are supportive of the fact that small business still enjoys the lowest corporate tax rate in the country. But we are concerned about the direction we're heading and would like to hear some affirmation from the minister that this is not the start of a round of increases in that sector in order to handle this government's deficit problems.

A fourth element relates to the reduction of the tax on manufacturing profits. We're at a stage where the provincial government is trying to encourage diversification, particularly in manufacturing, and I'm wondering whether the minister has any studies with respect to the impact of the elimination of this tax reduction on Alberta. What effect has the low tax rate had on attracting business to this particular area, and can he give us any comfort that this is not going to negatively impact that initiative?

It's at this point that I'd also like to raise a concern. Having looked through the Act, it's almost like déjà vu to older times when I was involved in the income tax world. I'm tempted to refer in many ways to this legislation as the retroactive tax amendment Act, because there are a number of provisions in this legislation which are retroactive. One of the retroactive provisions relates to the elimination of the manufacturers' exemption, and it relates to a retroactive addition of the definition of exempting the extraction of petroleum and natural gas from that tax reduction. That exemption goes back to years after March 31, 1985. I see the minister kind of looking a little puzzled, but it is clearly the government attempting to remedy an oversight, faultiness in its amendments, probably having some difficulty with some companies and saying that, "Well, we're going to remedy that through a retroactive change in the law," which is really a very, very poor precedent, particularly in the tax area.

The second area and my final point of which there is some element of retroactivity relates to an expansion in the avoidance provisions in the legislation. As a former tax man, I find myself very much like a reformed alcoholic and quite supportive of avoidance-style provisions, but I am concerned as well about the presence of several retroactive provisions going back to the year 1988 in that section as well and would ask the minister to review and comment upon the justification of his government for bringing forward income tax legislation which is retroactive in one instance for five years and in another instance in the range of two years.

MR. ACTING DEPUTY SPEAKER: The Member for Edmonton-Kingsway.

MR. McEACHERN: Thank you, Mr. Speaker. Of course, I want to back up all the comments made by my colleague for Calgary-Mountain View and concur with everything he said. But I want to add a couple of . . . [interjection] Oh, sure, your remarks were fine. No problem.

What I did want to do was ask the Treasurer a couple of questions and point out a couple of things related to the Alberta royalty tax credit program. Now, my colleague the Member for Calgary-Forest Lawn has been suggesting for some time that there have been problems in this area. Of course, it wasn't too hard to figure that out, because the Auditor General also was pointing that out on a fairly regular basis. So my colleague has been pressing the government to make some changes in this area, and they are to do with the area the Treasurer mentioned, or in one case anyway the double-dipping problem.

The other one was the hit-and-miss and start-and-stop nature, I believe, of the royalty tax credits. What he was suggesting was a longer term, more stable sort of credit that would be higher for small companies and smaller for big companies, or at least less important to big companies; in other words, a ceiling. The Minister of Energy has suggested, I believe, that that would be the direction the government would move in, and I believe the Treasurer claimed in his budget – in fact, I know he did – that they were moving in that direction. Yet when the Treasurer introduced the Bill, he didn't explain how it is they're going to do that. The Bill is quite technical, and it seems to me it would be a good idea for the Treasurer to explain to this House and put into words on the record here the moves and the changes he has made that will help to accomplish those two things, one the double-dipping thing and the other the longer term . . .

It involves, I gather, the calculation of a weighted average rate, a term that one sees in the Bill. Then, as is often the case with government Bills, it suggests that this will be determined by regulation or determined by the minister in regulations or something to that effect. That seems to be the case here as well, and I wonder if the Treasurer would agree to tabling the regulations along with this Bill so we could have a look at that and try to understand the changes he's making. Certainly it will make a difference to the royalty tax credit in future years. I believe '90 through '94 are the years that he was going to average, a five-year average. So perhaps the Treasurer could make some comment on those things now or when he introduces the Bill in Committee of the Whole. I guess that was my main concern that I wanted to add to the comments from my colleague from Calgary-Mountain View.

Perhaps just one other thing to raise a principle. When you start making changes in corporate taxes – and there are several

changes here – and you start talking oil royalties and rebates of taxes in effect, then it seems to me that the Treasurer and the government at this stage, given the concern for the environment, must be wondering about the whole idea of green taxes and oil, gasoline, coal, and energy-type taxes. I'm not asking for a full discussion on them or anything tonight, but I just wanted to flag the idea that surely that's an area in which the government is going to have to do some thinking. I think the people of Canada are going to force that upon us, and of course we are going to be moving in our society toward renewable energy as much as possible. The implication of the tax structures in the energy field is something that is going to take a great deal of debate and thought. There are, of course, a lot of anomalies and pros and cons about how you would do that, how you might impose taxes, whether you should have more taxes or less taxes, and the effect of that in that context. I just wanted to raise that idea.

SOME HON. MEMBERS: Question.

MR. ACTING DEPUTY SPEAKER: The hon. Provincial Treasurer to close debate.

MR. JOHNSTON: Mr. Speaker, I wanted to do only two or three things in a broad way in summarizing on second reading this evening. I guess for once we have some tax harmonization. That is to say, the three parties tend to agree generally with what's been presented in the Bill. What happens, though, of course is that my colleagues may not be voting for me on this piece of legislation if the opposition is agreeable. We may have a tough vote getting it through, but I hope the Whip will discipline and will maintain the government.

I wanted to make just a couple of comments. Of course, every government listens, and when suggestions are given about particular problems, they're identified not just by the government, which obviously does not have total wisdom. We look for suggestions. The opposition from time to time does have suggestions; I'd be the first to admit it. But, of course, we're the ones who will make it work more effectively and apply it so that it's well received by the private sector. Nonetheless, the notions in the debate and the questions raised do prompt ideas, and that's what the legislative process is about. Yes, colleagues across the way do have an opportunity to contribute to new ideas. I'd be the first to admit to that, and I appreciate the opportunity to debate it.

I want to make it clear, though, with respect to taxation that every time you increase or apply a tax it becomes regressive. There are very few taxes I can think of that are not regressive. It's always a question of how regressive the taxes are. Whether or not they impinge greater on lower income taxpayers than higher income taxpayers is always a matter of judgment, and I think our government has been very careful, going back as far as I can remember and certainly as far as I've been in government, to ensure that the small-income or low-income earner is well protected in this province against tax increases and the effect of regressive tax. As a matter of fact, I can just explain to you that in fact that has been the case. That's the policy. That's the principle. I want to start by saying that particularly with respect to personal income tax, we exempt well over 500,000 Albertans either by allowing them not to pay any tax whatsoever or providing some kind of sliding scale moving up from a very low amount, zero, to some other amount. That shows up in the Alberta income tax reduction, which every one of us probably calculated or at least tried to calculate this past April.

So we do look after it on that side, and of course in Alberta we pride ourselves by maintaining the lowest personal income tax of any province in Canada. Moreover, Mr. Speaker – and I've got to say it because everyone expects me to say it – there is no retail sales tax in this province. Again: the only province in Canada with no retail sales tax – the only one. That shows up again in the fundamental indicators that are taking place across this province, and that is the retail sales per capita.

Now, going back to the boom time in Ontario in 1987, Ontario had the highest retail sales per capita. They haven't caught up to us for, I think, the last 14 or 15 months. This economy has rebounded dramatically. Albertans are at work with higher paying jobs, and the impact of our tax is such that people will have more disposable income in their pockets.

If you go to a province and pay 7 percent on top of whatever else you have to buy, it becomes a fairly high item. In Alberta for the price of milk, a bit of bread, clothes, et cetera, children's wear in particular, that retail sales tax doesn't apply, so immediately you have a benefit there of quite an important amount of money. On top of that, our income tax is lower than any other province in Canada; therefore, the money you take home at the end of the day, the end of the month, is in fact substantially above any other province. At the same time, we provide other targeted and selective kinds of initiatives to protect particular people. Certainly senior citizens are those that are protected specifically. I recall, for example, the utility assistance plan. I recall the renter's assistance programs that go directly to senior citizens living in rented accommodation, plus the property tax reduction program. All of these are tax programs which are targeted with a broad policy to protect the regressive nature of taxes otherwise paid in Canada in other provinces and to ensure that Albertans have the best possible overall tax regime of any province in Canada. That's working. It's clear. Analysis shows it, the experts agree with it, and we're very fortunate that we can get on with that kind of tax policy.

When it comes to the corporate side, my colleagues across the way have also commented about the impact on corporations. What we did in 1987, as the members well know, is to increase the large corporate tax by about two-thirds, and now this budget increases the small business tax by about 1 percentage point. Even at that, Mr. Speaker, although the opposition has been railing for corporate tax increases, business tax increases, we have only modestly increased the small business rate from 5 to 6 percent, and Alberta's small business rate will be at least one-third lower than any other rate in any other province, providing again, supporting again that small business sector which generates jobs, which is probably the heart of the resilience, the rebound, that took place in this province in 1987-88.

So because of the evenhanded, across-the-board way in which we're attempting to generate revenues, including this Act, we're asking the small business to pay just a touch more. It's not a whole lot of increase. It's still far below other provinces in terms of what other provinces are paying, and because of the health of that sector, because that sector is viable, is strong, and is generating profits right now, again we can expect that they will be profitable even with this tax increase. I might note that we have provided to small businesses in particular a considerable amount of assistance, including the small business equity corporations, which worked effectively to establish equity in small businesses, and secondly, the 9 percent small business loan program, which is working effectively and, in fact, is ahead of its repayment schedule.

So those are some of the things. I could go on longer about tax regimes and tax policies and continue to delight my col-

leagues across the way. They don't really like to hear me talk about the strengths of our economy and the way in which our tax policy aligns itself with the private sector, ensuring that the private sector invests, that the private sector has profits – p-r-o-f-i-t-s – to reinvest again and generate jobs. That's how it works. A very simple formula, but unfortunately the opposition doesn't understand how the market system works. I keep reminding them. I keep giving them lessons, Mr. Speaker, but still they come back half educated. It's going to be a long process, and I'm sure they'll be in opposition a long time learning the way in which it works.

Mr. Speaker, on the Alberta royalty tax credit side, as I said earlier in my comments, this assistance to the oil and gas sector was vital to Alberta. Particularly we responded during the period when the national energy program was introduced in October of 1980, as the Minister of Energy outlined. We had that cap running to 95 percent, for example. We had an opportunity for increasing the royalties. In fact, it was $4 million at 75 percent, making the royalty tax free amount. We decided, because of the strength in that industry, Mr. Speaker – prices were higher, more resilience, better cash flow, the bank debt was being bought down. In consultation with the energy sector, we agreed and co-operated with them to redefine the Alberta royalty tax credit.

I agree; it's got a five-year horizon which works well. We think that the response now is going to be important. It's one of those items called the tax expenditure, which my friend from Edmonton-Kingsway used to criticize us about, but we're dealing with those tax expenditures, reducing the ARTC, and in part it shows up in the nonrenewable resource royalty which the province is showing here this year. And at the same time, because certain corporations had set themselves up with different associated company rules in Alberta corporate tax as opposed to the federal tax system, they could, if you like, spawn off, like a paramecium doing a multiplication, into other separate corporations and then take the maximum tax royalty at $3 million. We thought the so-called double-dipping, or associated companies, had to be amended, because it was intended that in fact one entity would have the benefit.

But I should say, Mr. Speaker, that those companies who had the advantage of the Alberta royalty tax credit – and we have the facts to show it – were in fact the companies that are now expanding, drilling in Alberta, and pursuing added reserves to our total provincial pool. Companies like Renaissance, for example, come to mind: one of the biggest players in drilling in Canada and in Alberta, drilling more wells than any of the large companies. In fact, it was the Alberta royalty tax credit program that allowed them to reinvest, to get a stronghold, to have cash flow, and to reinvest the cash flow profits back into drilling activity. But we are adjusting it, Mr. Speaker, in this piece of legislation. The two departments Energy and Treasury worked co-operatively to find a resolution to it, and it's before the Assembly right now.

I guess there were some technical questions. First of all, with taxation there always is an element of retroactivity in the tax. I should say that we had some concerns from some of the members of the petroleum industry that there was a retroactivity element with respect to ARTC. You'll notice that the ARTC doesn't end until it goes out a year or so, and that therefore is not retroactive. In fact, it's not at all retroactive. It gives them time to adjust their own financial situation.

With respect to other elements of the tax section, I can say that with respect to the 11(1) section the Member for Calgary-Buffalo talks about, we made a mistake. We had forgotten to make an adjustment, and we're catching up on it. It won't impinge on any company, according to my information. It's simply the problem of trying to align your legislation with the federal legislation, and we missed this one. So it's gone back to '85. In other cases, Mr. Speaker, the impact of retroactivity on taxation merely aligns the tax rules for the normal tax year, and again that's implicit in this legislation.

Well, Mr. Speaker, to tax and be fair is not given to men any more than to love and be wise, and any time I talk about legislation which affects taxation, I have to bring that one in. I only hope that with the support of all members, if there is some kind of fairness in taxation, I won't have to lose on the love side.

Mr. Speaker, I move second reading of this Bill.

[Motion carried; Bill 30 read a second time]

Bill 19
Financial Consumers Act

MR. ANDERSON: Mr. Speaker, I'm pleased to move second reading of Bill 19, the Financial Consumers Act.

In moving second reading of this particular piece of legislation, I should underline for the House that this Bill represents a first in a number of respects. It's the first Bill we know of in the British Commonwealth which requires that documents for a contract to be signed by someone purchasing a financial product be in plain language. It is a first with respect to transaction legislation – in other words, the legislation between the buyer and the seller of a financial product in terms of Canada's marketplace. It is also a first in terms of its style. It is designed to be readable by the consumer and understandable by all citizens in the province regardless of background.

Mr. Speaker, important to the principles of this Bill are the reasons why we find it necessary to put this kind of legislation before the House today. Clearly, in our rapidly changing, fast moving marketplace, our 24-hour financial marketplace, one that changes dollars through a computer in a moment's notice, it is essential that Albertans have the information they need in a manner they can understand before they sign on the dotted line for a financial product or service in the province. In that regard we have included in this Bill a number of provisions to try and ensure that that takes place. This Bill should be seen in the context of other changes that the government has made, that the government is proposing, to ensure that our marketplace is confident, is firm, is one that is trusted by the public of Alberta.

The Securities Amendment Act, passed last year, that tightened up insider trading and takeover bids; the credit union legislation introduced by the Provincial Treasurer; the loan and trust legislation, which he has already indicated he will, in months to come, introduce; and other regulatory and educational changes that we've made to our financial marketplace speak to the needs that are there today and, I believe, put us in the forefront with respect to keeping up with the times.

Dealing with the Bill and its particular provisions, Mr. Speaker, I should outline to the House that it includes responsibilities of a seller of a financial product, responsibilities such as disclosing basic information. Does the seller have a vested interest in the product? What, in fact, are the ramifications of purchasing the product? Making sure that that seller gives information about any compensation funds, such as the Canada Deposit Insurance Corporation, to the purchaser should those particular insurance provisions apply in case something does not work well with that particular product.

The Bill itself as well allows us to establish regulations governing the activities of a financial planner, one who advises individuals on the purchase of a financial product. We have had a committee of industry representatives and consumers working for the past year in trying to bring together this very complex field, and while the Bill itself contains only an enabling provision with respect to this area, it is one where I believe consumers want some safeguards. They want to be able to say, "When I go to a financial planner, the person will be subscribing to a set of ethics and standards and qualifications, and I as a financial consumer can trust him." It will take us some time to finalize the details of that, and we will do so in consultation with the industry and with consumers. But I expect that within a year of passage of the Bill, that will in fact take place.

Mr. Speaker, in addition to responsibilities for the seller of a financial product, the Bill is unique inasmuch as it also determines responsibilities on the part of the purchaser. The Bill tries to establish a sense of balance and of fairness in that respect and outlines some very basic steps that a consumer should take when purchasing a financial product and that he or she may need to take should they need to minimize losses or take other action as a result of that particular purchase. This section is meant as a means to judging a particular circumstance. An arbitrator under the arbitration section or the courts in those particular sections may take into account the consumer's diligence in looking after those basic requirements of responsibility along with those responsibilities of the seller of a financial product when judging whether or not the loss incurred, should there be a loss, is one that's accurate or correct or whether somebody has purposefully contravened this particular Bill.

Mr. Speaker, the Bill itself – I alluded to its provisions with respect to arbitration. That's another very unique part of this Bill. We believe that consumers want to be able to have redress when problems occur without going through an extremely expensive court process in all cases. In order to achieve that, we have put in place a provision which would allow a consumer of a product and the seller of a product to jointly agree on an arbitrator in the case of something going wrong. Should they not agree, there are provisions which would allow the department to appoint an arbitrator to settle the dispute and, hopefully, to do so without the greater costs of a court process and the time that it often takes in our court system.

The Bill also includes some very stiff penalties for individuals who would purposefully contravene sections of the Act and thereby in some way purposefully not give consumers the information required or carry out the responsibilities which are basic and should be required in this legislation. A $10,000 maximum fine or three times the loss incurred for an individual, $100,000 or three times the loss incurred for a company, and up to one year in jail are the penalties allowed for in this legislation should it be necessary to take a company or individual through the process because they have contravened sections of this legislation.

Mr. Speaker, I should indicate that the public participation process, the input process, has been lengthy with regards to this Bill because this is the first of its kind. This is a Bill that affects the transactions between a buyer and a seller. Starting with A Blueprint for Fairness in January of 1989, after extensive discussions by Pat Cashion's committee, through to the introduction of the white paper at the end of last year's sitting of the Legislature, we have consulted with industry groups around this province and national organizations which would be affected or have some input into this process. We have also worked very closely with the Consumers' Association of Alberta, and we advertised publicly after the presentation of the white paper for input from Albertans.

I would indicate as well that when I introduced the Bill in this Legislature on May 1, I promised that there would be one month between that introduction and committee stage of the Bill to again facilitate any recommendations and suggestions that we might have from industry groups and the public with respect to ways to improve that Bill. That is still intended with regard to this process, and we are now carrying out yet further consultation to ensure that this unique piece of legislation does what it's designed to do: help the consumer make an objective choice in terms of purchasing a financial product and be able to do so in understandable form and then have a method of redress should something go wrong.

This Bill is one which I believe many other Legislatures in this country will look at carefully, which we've discussed in intergovernmental meetings across the country, and which by its style itself, the plain language style and that requirement in contracts, will give us some basis on which to judge further progress that we could make in the area of helping consumers understand what they're buying. I believe firmly in this plain language principle, and while I know there are good arguments to be made for the complexity of some forms and agreements that we have in the province, the fact of the matter is that in this day and age when we as consumers have to look at so much, understand such complexity, and make decisions in the midst of a fast-moving, complex marketplace, we should at a minimum be able to understand the basic contract form we sign. This has not happened before in Canada, but the United States has had some experience in several states in applying this plain language concept. I might say that in New York state, where they introduced this kind of legislation some seven years ago amidst cries that it would cause complexity, would balkanize the court process by ensuring that all kinds of details went into it that weren't covered by legal language, in fact what they found is the reverse: that there is less litigation, fewer problems, and more understanding between buyer and seller because they both know what the agreement is. We have strived to accomplish that same thing here.

I might just close with trying to further define the plain language dimension. Plain language is really when I say to another individual, "Have an orange." But a quote taken from a recent magazine would say that when that transaction is entrusted to someone with legal expertise, it might read:

> I hereby give and convey to you, alt and singular, my estate and interest, rights, title, claim and advantages of and in said orange, together with its rind, juice, pulp and pips and all rights and advantages therein and full power to bite, suck and otherwise to eat the same or give the same away with or without rind, juice, skin, pulp and pips.

There are another couple of paragraphs there, but I won't hold the House up to hear those.

By saying this, I would emphasize once more that I believe there is not only a place but a requirement for the legal community in our society and that they provide a necessary service which many citizens must avail themselves of, and indeed the legal and financial experts of our community might need to be consulted in major transactions that people may choose to make. However, there is a basic right which we should have today, and that is to understand basically what we sign in a contract. We will, through this process, try and put that in place and judge its merit and its worth as we progress.

Because it's a new concept, that dimension of the Bill, along with the arbitration section, will take some time to phase in: up to two years after the House chooses to pass this particular Bill. We must allow companies and those who would create forms to adapt to this new requirement, but I might indicate that a number are moving in that direction now on a voluntary basis. I've seen forms by at least one bank and insurance company that indicate that they understand that in the best interests of business in the province, a consumer must have the confidence and faith that comes with understanding what is signed.

In that respect I would propose this Bill to the Assembly, ask for support in second reading, and indicate that I am more than pleased to hear from members here any suggestions for change and that we are likely to have amendments in Committee of the Whole as the input from the public, from the interested groups coalesces near the end of this week and into the next.

Thank you, Mr. Speaker. If I didn't say so before, I move second reading of Bill 19.

MR. ACTING DEPUTY SPEAKER: Member for Calgary-Buffalo.

MR. CHUMIR: Thank you, Mr. Speaker. This legislation might very well be entitled Son of Principal Group, as it's quite clear that the legislation has been primarily motivated by the Principal affair. Although to be fair in sharing the glory, some of that glory can be reflected upon Dial Mortgage, Abacus Cities, Ram Mortgage, Tower Mortgage, teachers' co-op, and other companies, because it follows the destruction of virtually the whole of the Alberta financial industry and many Alberta investors with it. Thus this legislation followed a series of events in which investors were badly burned because of the total abdication by the provincial government of protection for investors. Still feeling a little ill, Mr. Minister? The spending of 2.3 billion of our dollars when we didn't have to would make anyone ill.

Now, the classic case of abdication and failure to protect investors, of course, was the Investment Contracts Act, and it's hard to believe that legislation did not provide anywhere the requirement that that company provide to the public audited financial statements. There was nothing in that Act that required audited financial statements to be given to members of the public, and of course they weren't available. Investors didn't get them. They were, of course, supposed to provide them to the province, and from time to time the province did get them. But occasionally they were late, there were problems with them, they weren't accurate, but the government still continued to . . .

MR. ACTING DEPUTY SPEAKER: Order please, hon. member. I would just like to remind the Assembly that at the stage of second reading we are addressing whether or not hon. members are in favour of the principles contained in the Bill; in this case, Bill 19. I fail to see the relevance of recent remarks by the hon. member, and perhaps he could return to the principle of the Bill.

MR. CHUMIR: Thank you, Mr. Speaker. I'm merely addressing here the evil that is intended to be remedied by this legislation. I think, you know, that is quite relevant as we assess whether or not it does so remedy it. But I won't be long. I have another moment or two, and then I'll move right on into the Bill itself.

As I mentioned, regardless of the failure to file accurate financial statements, these companies were still allowed to sell their product, which merely serves to point out that there's no substitute for regulation of the entities themselves. Regardless of what type of legislation one provides, if there isn't the monitoring and the oversight and the supervision on the part of the government which has responsibility for so doing, we will still continue to have problems.

Now, as we look at this legislation, there are a number of principles in it that I think are very, very positive and I'm very supportive of. I'm very happy to see provisions requiring a disclosure to investors, although I might note that disclosure is only required in the event that financial statements are required by law, and if we still had that Investment Contracts Act, we would still have a problem. There's even a requirement that copies of documents be given, and I believe that's positive. Duties of financial planners are spelled out, and licensing is provided for. The plain language requirements I think are a very interesting and a worthwhile experiment; not as simple as it sounds, having a legal background, but I think it's a worthy direction. The legislation very sensibly regulates the use of personal financial information. I think that is a precedent that we might look at in many other areas; I think greater attention need be paid to privacy of information in the hands of government. There is provision for a court action to be instituted by consumer groups. Indeed, there are powers given to a director, including the power to commence legal proceedings to protect investors. These latter two provisions are particularly important, because, being involved with the investors in the Principal affair, it became very clear that with thousands and thousands of individual investors having perhaps significant sums at stake but not significant enough sums to be able to bear the cost of legal action alone, there was some need for some consolidating force. This, I think, is a sensible direction.

There are, however, several very major principles in this legislation that I have some great difficulty with. I have the most difficulty with a provision which, on its face, appears to be very, very sensible. That relates to the imposition of duties on consumers and investors themselves. Now, this is sound in theory, and I believe it to be very well motivated. In principle, I think it's important that consumers do attempt to be informed. But as I think through the implications of that in practice and in terms of my experience as both an investor and a lawyer, I have great reservations about it. I'm afraid that I see an inherent contradiction within the Act in respect of this philosophy of consumer responsibility, conflicting with the thrust of the Act to professionalize and license financial advisors.

Now, the provisions that concern me particularly are those which provide for the duties of the investor and consumer: to be well informed about the product, to obtain and review information about it, to make what is described as a sensible decision about it. Now, in the absence of those – those are fine in abstract – there is also a provision in the legislation that provides for the failure of the investor to fulfill those responsibilities. It may be taken into account in any subsequent legal proceedings and affect arbitration in apportioning damages.

[Mr. Deputy Speaker in the Chair]

Now, suppose, Mr. Speaker, that we have an individual who buys some investment in a mutual fund or some security, and the salesperson, your broker or whoever it is, sends you a foot or half a foot of documents. I've been the recipient of some very complex documentation about some of the instruments that I have purchased. Now, suppose I or anybody on the other side of this House, somebody who's very busy – the minister, the

Provincial Treasurer, even the Premier, who, being extremely busy, doesn't wish to read that pile of documents; he wishes to rely on the advisor as an expert – or suppose it's an individual who's not well educated or otherwise can't understand the significance of those documents. It seems to me that under those circumstances, if a financial planner, a vendor of an investment, acts dishonestly or acts negligently, an investor should not be faced with the argument that that professional, that person upon whom you relied, is not fully responsible because you the consumer did not read the foot of documents, whether you didn't want to read them or you couldn't understand them and didn't feel you could get into it. I don't believe it's right that a consumer can be met by a professional advisor who has failed to perform his or her duty with that argument and find that that affects the damages. To give an analogy, I would ask why a consumer should not be able to rely on a professional advisor in those circumstances in the same way that one is able to rely on a lawyer or an accountant when one goes to a member of that profession.

Albertans are not faced with a provision in legislation telling them that they have a duty to find out about the law or about accounting. There's no catalogue of duties that one is faced with. It just seems to me that when you're dealing as between two individuals, so long as the advice that you are seeking in the transaction is within the scope of the advisor's business and the expertise that he or she holds out, that investor should be able to rely completely on that advice in the same way as on any other professional, without being faced with the argument, "Well, you should have looked out after yourself." I don't think that duty of looking out after yourself exists in that instance.

Now, why do we have this provision in this instance? I think the error here has been caused by the fact that this legislation was motivated by the Principal issue, and it was motivated by the problems of a third party, the government, which was being asked to assume some responsibility. In a sense the government looked on this situation, saw that there perhaps was some failure of investors to look after themselves, and said, "Well, why should we be bearing the full burden?" But that's the role of an insurer. That may be a reasonable argument in the event that a third party is coming in and providing insurance, but I don't think it's a reasonable argument to be applied. I think it's fallacious, and I think it's terribly problematic when you're dealing with the investor and the expert that he retains for advice.

Now, I know that I, as I said earlier, get piles of documents from my financial advisors when I buy some instrument, and I quite frankly don't bother reading them. I don't have the time; I'm not interested in reading them. I want to rely on my advisor. He doesn't have to be omnipotent. I can be taking an investment risk, but I want to rely on his or her honesty or basic expertise, and I don't want to be faced with the argument that I should have been reading that pile of documents. I don't think that's a responsibility of the law, to tell me that. If you're setting up professional experts and if you're licensing them, I think we should be able to rely on them to carry out their duties.

I don't know where this concept came from. I don't know of any other jurisdiction – perhaps the minister can tell us about what other jurisdiction. What is the precedent for this, and how is it working? My instincts are that this is something unique to Alberta. It came out of the unique situation of a government looking in as a third party and saying, "We're being asked to be the insurers." I can see the frustration from that point of view, but I think the conclusion that's been reached and the direction of the legislation is very, very flawed as to relations between the two parties. You are dealing with a relation between a consumer and a professional, and that professional should have the full responsibility to fulfill the duties within a certain scope. If you're outside of that scope, it's a different ball of wax, but this legislation should deal with that scope.

Now I'd like to move on to the second concern that I have with this legislation, and that relates to the dispute resolution provisions. As the minister said, the legislation requires arbitration. It doesn't just make it possible; it says that arbitration has to take place unless both parties agree. So if I want to sue my professional advisor and go to court, access to the courts is being denied to me.

This is a very significant step. There are not very many precedents that I'm aware of. In fact, I can't think of any in the area of contract. There certainly are in other areas: labour. Now, I assume that this legislation was well motivated and is there with the intention of helping the little guy who perhaps can't afford a lawyer or for some other reason the arbitration process is simpler and more suitable. Nevertheless, it encompasses all situations. It's an important derogation of rights.

It also has some potential jurisdictional problems in terms of our Constitution. There is a very strong argument that it impinges on the federal government's jurisdiction over superior courts and judges because in effect what this does is creates for a provincially appointed arbitration board the powers of a court to resolve disputes which sometimes may be significant, well beyond small debts limits, which we do have jurisdiction over, but may involve significant sums of money. So that is another concern that I have, and I wonder whether the minister might advise what precedent we have for legislation of this kind in the financial realm. What evidence do we have as to how this works? It may be a sensible and useful experiment. I have some questions and doubts about it, and I certainly would solicit the in-depth advice of the minister with respect to the motivation for this legislation.

We intend to support the legislation at second reading because we think it has more good features than bad, but we will reserve with respect to our final support until we hear the minister's comments and some debate on these particular concerns that we have.

MR. DEPUTY SPEAKER: The hon. Member for Edmonton-Kingsway.

MR. McEACHERN: Thank you, Mr. Speaker. I rise also to support this Bill in principle, although that doesn't mean that we don't have a certain number of concerns, which of course I will outline in a minute. But let me say first that I'm basically speaking on behalf of my colleague from Edmonton-Strathcona, who did peruse the Bill and made some suggestions for amendments and liked most of what he saw. I found I had one or two reservations, perhaps, that were a little stronger than his in the area already mentioned and fairly well elaborated on by the Member for Calgary-Buffalo, the area of the responsibilities of the consumer, and I will get back to that point in a minute.

I'd like to say that we need to see this Bill, while it is a good one and moving in the right direction, as being something that's come, you know, finally. I mean, it's been a long time in the making. The breakdown of the four pillars of the financial world – the banks, the trust companies, the insurance companies, the stock markets – the breakdown in those different institutions took place five or so years ago, over a period of time. Banks have bought trust companies, and they want to sell insurance although they haven't been allowed to yet. Big commercial

investments are allowed to have their own trust companies. Trust companies are allowed to act like banks. So it's been a rather topsy-turvy financial world. Going along with that has been a period of incredible numbers of financial institutions going bankrupt, particularly here in Alberta. We've had our scandals on the Alberta stock market. I think of the Commonwealth affair. We had Principal recently. We had Abacus, we had Dial, we had CCB – which was a federal sort of thing – Northland, and so on. So it's time that we as a society started to reregulate this deregulated financial industry that's been going through such topsy-turvy times. It is true that the government has brought in a new Securities Act and tightened things up there a bit and a new Credit Union Act, with some strong conflict of interest guidelines. I can't help wondering why the Treasurer is taking so long with his loan and trust legislation.

Anyway, this is a move in the right direction. In fact, my colleague from Edmonton-Strathcona and I put forward some ideas for some of the kinds of regulations that should have been brought into effect a couple of years ago modeled, I might say, fairly closely on some of the ideas put forward by the Member for Three Hills when she was minister of consumer affairs back in about 1983 and ignored by the Lougheed government. So, in fact, some of the ideas to reregulate the financial industry have been around for a long time. One of the major points in it was the idea of more and better disclosure on the part of the people selling the financial products, and that idea is in here, we're glad to see. I compliment the minister on the direction he's going.

The idea of plain language is an excellent one, and we approve of that. It makes the Bill much easier to read and understand. If suppliers and agents and financial planners that are selling different financial instruments have to put their information in plain language, then consumers are going to be better able to understand them.

We will be supporting this legislation at second reading, and we'll look forward to suggesting some amendments at Committee of the Whole. In fact, because there is a period of time between now and then, I think I will indicate the direction of some of those amendments, without maybe getting too detailed, so that the minister will have those to compare to other people's suggestions for changes.

One of the first suggestions that my colleague from Edmonton-Strathcona put forward was that the term "named financial product" has a problem in that it does not include a mortgage. He wondered if there's anything in the real estate licensing Act that says that somebody who's selling a mortgage would have to disclose their pecuniary interest in selling that mortgage. So that's something we were interested in. The change would not be all that difficult to make. The lack of mortgage sellers being included in the named financial product comes about because the definition of named financial product in section 21 only includes those people who are licensed under the trades and businesses Act.

So what my colleague suggested was something like this: a "financial planner" means a person who holds himself or herself out as being engaged in financial planning and includes a person who is licensed to do business planning under regulation made under the Licensing of Trades and Businesses Act. Then, of course, you would need section 21 because you'd have that built into the definitions in the front.

Also, he found the term "financial planning" to be rather narrow and unduly restrictive, as he says. Why is it, for instance, that a financial planner is only somebody who is saying that he's actually going to come up with a plan for somebody else? Why isn't it anybody that says he's going to give somebody advice, even if it's only just part of a plan? For example, if I'm the customer and I just want to buy something – let's say a mutual fund or something like that – then the person selling me that mutual fund doesn't have to know all about my financial affairs and see whether it fits into the portfolio and work me out a yearly plan or a 10-year plan for my financial affairs. All he needs to do is deal with the specific instrument, the mutual fund exchange. Yet he is giving me advice, and the provisions of this Act should apply in that situation. He should be deemed to be an honest person that's up front, telling about what interest he has and whether he's going to get a commission out of that sale and if so, how much, and all the things that are in this Act, all the good things that are there. So it shouldn't just apply to somebody making a full plan.

Now, the minister will say that we do have two other terms here, a supplier and an agent or a financial planner, and that is true. So perhaps the other two terms cover those situations, but I'm not sure that they do, so I would put that forward for consideration by the minister. My colleague's suggestion for dealing with that lack was to just define financial planning this way: financial planning means reviewing, analyzing, or organizing personal financial information for the purpose of, one, preparing a plan to manage or, two, otherwise advising on a consumer's financial affairs. Then that would incorporate anybody else that was doing just a partial plan or just a one-shot thing.

The use of plain language throughout the whole thing is excellent, and my colleague just came up with one suggestion for an addition. This is section 13, the plain language section, which starts on page 9. After (1) he suggested there should be a different (2). There is a (2) on page 10, but he would suggest that would be moved down and called (3) and then (3) would become (4).

MR. DAY: Save this for committee.

MR. McEACHERN: Well, there's a particular reason for giving this to the minister now. We're not exactly certain that this Bill will get back before the Assembly. It depends if enough people decide they want enough changes, so the minister does need to know, and I think we should have on the record our suggestions. I've only got one or two more, and they're not very long. [interjections] I am just hitting the highlight points. I'm not . . .

MR. DEPUTY SPEAKER: The member can surely advise the hon. minister.

MR. McEACHERN: What he suggested was a second section under 13 – and it's fairly short, Mr. Speaker – that would be interposed between the present (1) and (2) and which would say: in addition, all clauses that exempt from liability, wherever they are in the document, must be clearly drawn to the attention of the reader on the front page of the document as being conditions under which the contractor or other person may escape liability.

Now, what he's getting at here is the section that in most Acts is what my colleague referred to as a "weasel clause." For instance, if you buy car insurance and the insurance company promises to pay if you have an accident, they may weasel out if you in fact were drunk when you had the accident: that kind of thing. So in this case if there are going to be any weasel clauses – in other words, clauses that exempt the seller from being liable – then that has to be up front and right on the front page and

shown to the customer so that they know before they buy exactly what the weasel clauses are. In other words, it can't be in the fine print somewhere on page 17 so that you don't run into the problem my colleague from Calgary-Buffalo was talking about a while ago.

That was (2)(a) he suggested. He also had a (2)(b), which is even shorter but says: any such clause that is not so drawn to the attention of the reader is of no effect. So if any such clause that allows the seller to in effect weasel out wasn't been drawn to the attention of the customer beforehand is not in effect.

The dispute-settling mechanisms. I, too, have the same problem as the Member for Calgary-Buffalo. I don't think it was clear in the Bill whether a customer who is dissatisfied would have the right to go to court if they wanted to without the agreement of the seller, and it might be quite hard to get sometimes; in fact quite often, I would think. So I can't help wondering why both people have to agree to go to court rather than to an arbitrator. You're sort of denying a right that most people have to go to court over things they're dissatisfied with.

I would also just mention that in the section on the arbitration there doesn't seem to be anything about a time limit on when you could bring a dispute. Now, there is in the section on the courts. There's a two-year time limit to bring a dispute to someone's attention, but there doesn't seem to be in the arbitration section. Perhaps the minister would like to take a look at that.

Those, Mr. Speaker, are most of the points that were raised by my colleague from Edmonton-Strathcona except for one thing. This was a particular point that I was concerned about and that has been fairly well elaborated on by the Member for Calgary-Buffalo. It is an important principle: the one about the responsibility of the consumer. We have accused the government in the past of just sort of saying, "Buyer beware," and not protecting the consumers of this province in too many instances. I wonder if that section isn't sort of a result of the feeling that, "Well, you know, these people bought those things, like in the Principal affair, and they should have known, or if they didn't know, it's their own fault that they sort of got hooked." I can't help thinking that that section on the responsibilities of the consumer is not a good section. Now, my colleague from Edmonton-Strathcona, to give him his due, said "not so bad" and suggested an amendment that would improve it. Personally, I'm still not too happy, but I will give you his suggested amendment in a minute.

The problem with the principle of the buyer having some responsibility is twofold. I think the example used by the Member for Calgary-Buffalo was a good one in that if he goes to somebody he trusts as a seller of a particular product and that seller in any way does him in, even if he hasn't looked at all the documents and asked all the right questions because he hasn't got time – he's a busy person and he trusted that person – then that person must not break that trust, and you mustn't blame the person that didn't ask the questions. It's a little bit too much like blaming the victim. That's the way I see it.

However, my colleague from Edmonton-Strathcona did suggest that if one was going to proceed with this kind of an idea that the consumer must show some responsibility, you could fix up the first section a little bit. You see the problem. There's not only the example I reiterated that the Member for Calgary-Buffalo talked about but think about another instance where, let's say, some elderly person hasn't had a lot of money and hasn't had a lot to do with financial institutions in their life. They've saved a little nest egg, and somebody comes along and says, "You know, if you just put that into Principal, you get a better rate of interest there than you do over at the bank." [interjection] Mr. Speaker, would you ask this person to keep quiet and quit interrupting me in the middle of my speech and making snide and silly remarks?

SOME HON. MEMBERS: Aw, isn't that too bad.

MR. McEACHERN: Well, he has no right. I'm in the middle of a very serious discussion here with the minister. If he doesn't like it, then he can leave, but I'd just like him to keep his mouth shut. Stan Nelson has no bloody right to continue to swear at us and interfere and say stupid remarks in the middle of our speeches. [interjections]

MR. DEPUTY SPEAKER: Order please. The Chair must admit that the Chair did not hear anything coming from that quarter, but I would remind all members of the House that if they have something to say, they should be recognized by the Chair and take to their feet to say what they have to say and not make speeches sitting down.

MR. McEACHERN: Thank you, Mr. Speaker. I might add that I don't mind a little bit of normal heckling, but this sometimes gets out of hand.

Anyway, my colleague from Edmonton-Strathcona, who takes this Act very seriously and supports it basically, has made a suggestion that if you're going to keep a section on consumer responsibility, you might in 5(1), in the very opening statement, make an amendment which would allow for the situation I was in the middle of describing when I was interrupted. You consider two different people, for instance, that bought, let's say, Principal contracts in FIC and AIC, one or the other or both. You think of the one person who, as I was saying a minute ago, may be an older person that hasn't had a lot of money and doesn't know a lot about financial institutions and is told that if they just put the money into FIC, they're going to get a little better rate of interest and it's perfectly sound and safe and all the reasons why. That person doesn't really know enough to ask a lot of questions. Okay? Then we take another person. We'll pick on my friend from Calgary-Buffalo and say that suppose he decides that he's going to do the same thing. But he does know enough because he's had a lot of experience – he's a sharp guy and a lawyer – and he does ask a lot of questions. Then in this legislation, when you get down to number 7 on page 6, where it talks about the "effect of consumers' failure to fulfill responsibilities," it says:

> Failure by a consumer to fulfill the responsibilities referred to in this Division is to be taken into account in assessing or apportioning damages in claims for loss under this Act.

Now, what that would mean in this Principal case that I just described is that because my friend from Calgary-Buffalo asked the right questions, he would in some way be entitled to more compensation than the older person I was talking about who did not ask the right questions because they didn't understand much about financial products. That would not be fair. The same kind of scam was organized and run by the Principal organization, and whether you asked the right questions or not, you maybe didn't get at the information you needed to say, "Stay the heck out of it." So my friend from Calgary-Buffalo may very well have got taken in just as easily as the older person who didn't know or wasn't very sophisticated in asking the right questions. So the sophistication of the consumer should not be a problem. They deserve the same kind of compensation regardless of the level of sophistication of the' person who's

buying the product. If left the way it is, it's too much like blaming the victim for the problem.

Now, the amendment that the Member for Edmonton-Strathcona suggested is a little bit like legalese, but what do you expect from a lawyer? [interjections]

MR. DEPUTY SPEAKER: Order please. I don't think the hon. member should suggest the wording of an amendment at second reading. It's all right for the hon. member to recognize a problem with the legislation that requires an amendment and describe the problem that needs solution, but the hon. member should not suggest the solution in his second reading debate.

MR. McEACHERN: Well, okay, Mr. Speaker, I guess. But you let me do the same on three or four others, and the minister did say that this Bill may not be back before this Assembly this session. So that was my understanding for giving these points.

AN HON. MEMBER: Who said that?

MR. McEACHERN: Well . . .

MR. DEPUTY SPEAKER: Order please, hon. member. There are other methods of dealing with this. The hon. member can certainly highlight the problems, and if he wants to let the minister know for later, he can write the minister a letter. It doesn't have to be put on the record, preparing for committee.

MR. McEACHERN: All right; you've ruled.

MR. DEPUTY SPEAKER: The hon. Member for Three Hills.

MRS. OSTERMAN: Mr. Speaker, in view of the hour – and I would recognize that I'm sure that a number of our colleagues on the government side will be wanting to make comments in support of this very significant legislation – I would move that we adjourn debate.

MR. DEPUTY SPEAKER: Having heard the motion of the hon. Member for Three Hills, all those in favour, please say aye.

SOME HON. MEMBERS: Aye.

MR. DEPUTY SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

MR. DEPUTY SPEAKER: Carried.

MR. HORSMAN: Mr. Speaker, by way of advising the Assembly with regard to business tomorrow afternoon, it will be the intention of the government to bring forward continuation of debate on this Bill and other Bills for second reading.

[At 10:38 p.m. the House adjourned to Wednesday at 2:30 p.m.]