



Second Session — Thirty-Second Legislature
of the
Legislative Assembly of Manitoba

STANDING COMMITTEE

on

LAW AMENDMENTS

31-32 Elizabeth II

Chairman
Mr. P. Eyler
Constituency of River East



MG-8048

VOL. XXXI No. 3 - 10:00 a.m., THURSDAY, 21 APRIL, 1983.

MANITOBA LEGISLATIVE ASSEMBLY**Thirty-Second Legislature****Members, Constituencies and Political Affiliation**

Name	Constituency	Party
ADAM, Hon. A.R. (Pete)	Ste. Rose	NDP
ANSTETT, Andy	Springfield	NDP
ASHTON, Steve	Thompson	NDP
BANMAN, Robert (Bob)	La Verendrye	PC
BLAKE, David R. (Dave)	Minnedosa	PC
BROWN, Arnold	Rhineland	PC
BUCKLASCHUK, John M.	Gimli	NDP
CARROLL, Q.C., Henry N.	Brandon West	IND
CORRIN, Brian	Ellice	NDP
COWAN, Hon. Jay	Churchill	NDP
DESJARDINS, Hon. Laurent	St. Boniface	NDP
DODICK, Doreen	Riel	NDP
DOERN, Russell	Elmwood	NDP
DOLIN, Mary Beth	Kildonan	NDP
DOWNEY, James E.	Arthur	PC
DRIEDGER, Albert	Emerson	PC
ENNS, Harry	Lakeside	PC
EVANS, Hon. Leonard S.	Brandon East	NDP
EYLER, Phil	River East	NDP
FILMON, Gary	Tuxedo	PC
FOX, Peter	Cordcordia	NDP
GOURLAY, D.M. (Doug)	Swan River	PC
GRAHAM, Harry	Virden	PC
HAMMOND, Gerrie	Kirkfield Park	PC
HARAPIAK, Harry M.	The Pas	NDP
HARPER, Elijah	Rupertsland	NDP
HEMPHILL, Hon. Maureen	Logan	NDP
HYDE, Lloyd	Portage la Prairie	PC
JOHNSTON, J. Frank	Sturgeon Creek	PC
KOSTYRA, Hon. Eugene	Seven Oaks	NDP
KOVNATS, Abe	Niakwa	PC
LECUYER, Gérard	Radisson	NDP
LYON, Q.C., Hon. Sterling	Charleswood	PC
MACKLING, Q.C., Hon. Al	St. James	NDP
MALINOWSKI, Donald M.	St. Johns	NDP
MANNES, Clayton	Morris	PC
McKENZIE, J. Wally	Roblin-Russell	PC
MERCIER, Q.C., G.W.J. (Gerry)	St. Norbert	PC
NORDMAN, Rurik (Ric)	Assiniboia	PC
OLESON, Charlotte	Gladstone	PC
ORCHARD, Donald	Pembina	PC
PAWLEY, Q.C., Hon. Howard R.	Selkirk	NDP
PARASIUK, Hon. Wilson	Transcona	NDP
PENNER, Q.C., Hon. Roland	Fort Rouge	NDP
PHILLIPS, Myrna A.	Wolseley	NDP
PLOHMAN, John	Dauphin	NDP
RANSOM, A. Brian	Turtle Mountain	PC
SANTOS, Conrad	Burrows	NDP
SCHROEDER, Hon. Vic	Rossmere	NDP
SCOTT, Don	Inkster	NDP
SHERMAN, L.R. (Bud)	Fort Garry	PC
SMITH, Hon. Muriel	Osborne	NDP
STEEN, Warren	River Heights	PC
STORIE, Jerry T.	Flin Flon	NDP
URUSKI, Hon. Bill	Interlake	NDP
USKIW, Hon. Samuel	Lac du Bonnet	NDP
WALDING, Hon. D. James	St. Vital	NDP

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS

Thursday, 21 April, 1983

TIME — 10:00 a.m.

LOCATION — Winnipeg

CHAIRMAN — Mr. P. Eyer, River East

ATTENDANCE — 23 QUORUM - 10

Members of the Committee present:

Hon. Ms. Dolin, Hon. Messrs. Evans, Kostyra, Mackling, Parasiuk, Penner, Storie, Hon. Mrs. Smith

Messrs. Doern, Brown, Driedger, Eyer, Filmon, Graham, Lecuyer, Nordman, Santos, Scott, Steen and Mdmes. Dodick, Hammond, Oleson, Ms. Phillips.

WITNESSES: Mr. Walter Kucharczyk - Private Citizen

Mr. Bob Puchniak - Tundra Oil and Gas

Mr. John Phillips - New Scope Resource Ltd.

Mr. Cliff Calverley - Private Citizen

MATTERS UNDER DISCUSSION:

Bill No. 5 - The Surface Rights Act; Loi sur les droits de surface.

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MR. CHAIRMAN: Committee come to order. We are considering primarily today, Surface Rights legislation, Bill No. 5. I understand we still have four members of the public who would like to present briefs, as well as, another member of the public who would like to present a brief on Bill No. 27, An Act to amend The Social Services Administration Act.

Is it the will of the committee to deal with all presentations first, or to proceed through the bills, bill by bill? Presentations first.

Okay, the order of public speakers which I have is one, Mr. Walter Kucharczyk. Is Mr. Kucharczyk present?

MR. W. KUCHARCZYK: Mr. Chairman, with your kind permission, I brought a good luck charm with me, and it's more than good luck, it's a very powerful weapon.

A MEMBER: Have you got one for each member of the Committee?

MR. W. KUCHARCZYK: Oh no, that's very unique — (Interjection) — Sir, I only know that one of your members is going to leave very soon. Yes, as soon as I start to present the case.

Mr. Chairman, distinguished members of the Law Amendments Committee, my name is Walter Kucharczyk. Some of you never will forget me, for sure. I am here on the Bill No. 5. I am here to oppose the

Bill No. 5. I do not represent anyone but myself, plus a few years of experience.

Bill No. 5 cannot be discussed separately from an issue of mineral rights. It's just like Siamese twins because, if you would have no question of mineral rights dealing with petroleum and natural gas and related hydrocarbons, then you would have no need for surface rights bill, as simple as that. As a matter of fact, you don't need it.

Now let's start with a general observation. The Province of Saskatchewan and the Province of Alberta, approximately, have equal amounts of acreage owned by the Crown, that is to say, about 80 percent of the title to mineral rights, including petroleum and natural gas, in the hands of the Crown or others - by Crown I mean the Provincial Governments. Here, in Manitoba, it's in reverse; it is approximately 20 percent title to the mineral rights would be in the hands of the province. Now, it's very significant, indeed, to remember that and to bear it in mind.

To give you an idea, briefly, very briefly, what really caused the militancy pertaining to the surface rights, you have to go back, at least with my knowledge, Saskatchewan, 1953, precisely October 28. 1953, very significant statement I'm just about to make, which you can verify. The Leader Post, paper in Saskatchewan, Regina, Saskatchewan, of the date given, October 28, 1953. "Premier Goes After Meeting Heckler, Estevan Special. A CCF political meeting in Estevan, Tuesday night began quietly and wound up in what almost amounted to a free-for-all when Premier T. C. Douglas jumped from the platform and took after the heckler. Two men were forcibly removed from the meeting and police were called eight times to quell disturbance."

What was all about? It was simply that the farmers wanted to know what the government was going to do about the mineral rights that it had taken from farmers who had failed to pay the mineral rights tax.

Now, ladies and gentlemen, that was during the election of that famous advisor of the association from Virden, Mr. Kohaly. He ran on Liberal-PC ticket at the time and, naturally, the farmers were just shaking. He felt sorry for them. Are you surprised, now, how well he prepared the surface rights for representation to you? Sure, it's easy to cry when there is 80 percent of title to mineral rights in the hands of the province, and you expect Mrs. Farmer to meet the drilling unit on their property with a bouquet of roses when they just lost their mineral rights because they didn't pay a penny for taxes, and didn't have proper notification according to them. Please bear in mind it has a very important influence on our situation in Manitoba. I won't go in any further details; I was a show of the show back in '53.

Continuation. When somebody comes on your property and you have no benefit, other than a few pennies, what is expected; open-arm policy; welcome; red carpet? Of course not, those people are farmers; they love their land. It just happens I work also in Santa

Barbara, California, and if you think you have a problem here from the respective association, you ought to hear it down there, where it's, of course, bushes of roses, etc. were trampled.

I don't want to create the false impression on you that the taxes alone give control to the Province of Saskatchewan of the mineral rights, because when the American operators, predominantly, started to buy mineral right titles - don't mix up with the leases, that's an entirely different thing, of course - outright purchase, the Province of Saskatchewan, under Mr. Brockelbank went ahead and also bought the mineral rights. What's good for neighbour across the border is good for Saskatchewan. That is how they accumulated up to 80 percent control of all the mineral rights.

Naturally, Saskatchewan legislation became a must pertaining to the surface owners, to the farmers. There is such an anomaly that, Mr. Chairman, the Honourable Minister of Energy and Mines will verify, that even the Province of Manitoba has mineral rights title in the Province of Saskatchewan through the railway history that the province one time financed, including right-of-way, etc. Those things happen that today, when one looks back, wonders why.

Ex-servicemen of the First World War, when they were getting the land, if they wanted to get title to mineral rights, additional \$20.00. Those were tough days, \$20.00 meant a lot, and some said, ah, heck with it, there will never be mineral on my property. Naturally, the feelings became bitter, hard, when the explorations started, for the simple reason that man said, well the government didn't look after me, they never should have left to my discretion to pay additional money. Of course, a very similar thing happened after the Second World War. Let's not blame the Saskatchewan all the way, it is just only an example, the necessity to have a very comprehensive surface rights legislation, because our proposed Bill No. 5 is based on Saskatchewan and Alberta.

Alberta, from that point of view, it's nothing to write home about either. I won't waste your time on the history of Alberta, but it's very similar, except the Hudson Bay played a very important role way back as to the ownership of mineral rights. Also, a very important role was played by the railways, wills to universities, etc., anyway, they accumulated in excess of 80 percent of title to mineral rights. Again, since Alberta is, I believe, the second largest producer of the grain from farm, including the Peace River area, farming naturally was impaired by extreme activities, the legislation was necessary, because so many companies - and don't blame all the way the oil companies, because the oil companies hire contractors who are drillers. It is very hard to enforce all kinds of rules on a man in the field. You have enough problems here right in the city, when even city trucks run over boulevards, etc. Now you just go in the fall, when the land is wet, and you would expect that the man will not take a couple more feet, not to get stuck, to go on the farmer's land, well but it's farmer's land, it's not on the plan - and I'm talking about drill location plan that has to be filed, technically, already. So extra land is used, the farmer's blood pressure goes up, the good wife helps, and all hell breaks loose - excuse my language. Who is to blame? Well, naturally the oil company because they hire the contractor, eh, and the contractor made a mess. So, of course, oil companies are awful ones, eh, as a rule?

Now, here in Manitoba, we also don't have a record that we would carry the flag in front of us. In 1953, the case was filed as a test case by an Honourable Member, a Mr. Wardell - he's dead now - against the Farm Loans Association and the Government of Manitoba. They lost in the Queen's Bench, they lost in the Court of Appeal, and in 1956, the Supreme Court of Canada gave the mineral rights back to those from whom they were taken for consideration of taxes and now the money filed against those people, because when farmers were able to pay off the previously mentioned Manitoba Farm Loans Association and the Government of Manitoba, the agencies retained the mineral rights by giving surface rights.

Well, in a nutshell, the court suggested that the Crown did not contribute anything whatsoever to the development of mineral rights; therefore, they have to go back. Why did they mention that? Mr. Chairman, ladies and gentlemen, an action like that made Mr. Campbell's heart very heavy. He spoke many times on that issue, but the law is the law, eh? So he did not leave again the love affair between the government and farmers. Now, those things accumulate, a negative feeling develops. How would you like me to take your car and go for a ride and say, you just wait and pay for the gasoline, for example? Now, with that background we also have a history here in this province that is nothing to be too proud about, eh?

Now then, the petroleum industry became interested in Manitoba. So these things started by California Standard Oil Company; the Government of the Day was very co-operative with the company. They weren't, shall I say, too detail-minded. It was good communication and you had the birth, in 1950-51, of the first well in Manitoba - we'll come to it.

For you to visualize Bill No. 5, you have to think for a second about the biggest-ever inquiry dealing with the surface rights in millions and millions of dollars by Justice Berger, three pipelines up north. One part of the inquiry was the surface rights. Surface rights - if I mispronounce, I apologize to those people pertaining to Dene and Metis, just to be on the safe side.

Overnight experts advised Justice that it will be a catastrophe to have a pipeline up north; it will damage wildlife and, above all, the tundra will be destroyed and take such a long time to grow anything on that particularly damaged area. Won't go into all the details. All of a sudden somebody got a bright idea in Ottawa and they brought in four Soviet experts, no publicity whatsoever because that's no news, it was good news. And they brought in their know-how from Trans-Siberian railway and also their pipelines and, all of a sudden, only one issue was left. Ten years moratorium on setting the surface rights ownership to whom it might belong in the future, obviously, to the Dene and Metis. Fine.

With all due respect to the Justice Berger, one segment occurred of that ten years. You all, I assume, heard recently, or saw on T.V., or read about it, an unusual development in the Norman Wells - Norman Wells are in the Peace River area - strategical wells, Second World War, pipeline temporarily built to Whitehorse in connection with a National Defence Program by Americans; non-functional since. Now then, what occurred there? Mr. Chairman, ladies and gentlemen, joint venture - Mr. Chairman, the Minister

likes the expression - joint venture, but not the kind of joint venture that this province thinks about. Joint venture between Dene, Metis, Esso Canada Limited, and part of Dominion of Canada in pipeline from Norman Wells, 868.6 kilometres, in miles approximately 543 - I hope I didn't make a mistake - right to Zama, Alberta.

Now, what I'm trying to say, a big issue about the Metis's rights, etc., 10 years or more never will be settled and all of a sudden they got at the round table and they settled. Mr. Chairman, please do visualize, in the miles might be easier, 543 miles jointly, Sir, and the Native partners also being trained in drilling. I'm referring to that Bill No. 5, there is as much need for that Bill No. 5 as I need an additional hole in the head or maybe some friends "wish that I should have one," when people can come to such understanding. Now there is one of their intellectual giants there, Sir, from petroleum branch or all the branches of mining there, from Century Building Director.

Mr. Chairman, 3,300 wells drilled in Manitoba, Sir, how many cases went to court to settle the problems? I think, one, and that's including strata test holes, approximately 300. Now, isn't that self-explanatory, that somehow the Mining Board getting expertise knowledge from other people when it came to technically their own knowledge? They are non-partisan, no conflict of interest. How did they manage? All of sudden, what happens? Mr. Kohaly came to Estevan because the previous administration suggested that we should have an inquiry. After counselling the bill, after first reading gave some more power - I don't remember the details - for the Mining Board. We should have an inquiry. We should find out if maybe there is something among those farmers. Where there is smoke, maybe there is a fire. Who knows?

At the same time, Sir, my friends told me, that wasn't either the Minister or Deputy Minister of the previous administration. We weren't on speaking terms over potash, but I cannot go on that issue because you will rule me out of order. Now then, Sir, that was open season at that time on the oil companies because, in '73, right or wrong, I don't know, that's too deep for me, the documents were seized by federal authorities. As I said, I'm not commenting on it, I don't know. The premises were searched and documents seized, Page 213, under The Combines Investigation Act. All the major companies, including Imperial, B.P., Mobil, Shell, Gulf, Imperial several times, not Petro-Canada yet, no, that's '73.

All the negative "news," I would say comments about the oil companies jointly dealing with the alleged \$12.1 billion, that the companies took advantage of the people. Mr. Chairman, don't rule me out of order. That entices Bill No. 5 and in a minute I will prove it to you. I will quote from the public leaflet. It says, "Not guilty by Esso. Esso Canada Ltd.:" There is only one part here. Bear with me, please.

"We are Imperial Oil and proud of it. We don't cheat, we don't lie, we don't steal and we don't rip off our customers. We're hard-working professionals who compete in a tough marketplace; we compete by offering the best products at competitive prices; we believe in dealing fair and square and honestly; we conduct our businesses in accordance with the highest ethical principles; we always have. For over a century

we have given Canadians value for their money, now we have been accused, along with other members of the Canadian Petroleum Industry, of overcharging the public by billions of dollars. It simply is not true, we do like a chance to tell you our side of the story. You have probably seen that figure of 12.1 billion that appeared in a recent report on the state of competition in the Canadian Petroleum Industry - only one more sentence. That's a very big number, it's supposed to be the amount expressed in 1980 dollars, by which major Canadian oil companies overcharged consumers between '58 and '73. There was no ripoff, the charge is incredible and the end irresponsible. The arithmetic is just plain meaningless. Under that particular, Mr. Chairman, psychology, open season on oil companies. Of course, you have a detrimental attitude of the people of the Virden area, they started to look for - how did I get taken advantage of - I give you my word a man with whom I dealt, developing his property 17 years later, after that he went and asked if he got enough at the time for damage to his property, 17 years later. And yet, Sir, what caused to ask questions like that? Open season on oil companies. The Imperial concluded the way I cannot because, well I'm not Canadian born, I don't have to tell you that, my English is not at par with yours.

To sum up we believe that Imperial Oil, and that applies to all other companies, has always acted ways that have best served the interest of Canadian customers and that we have acted honourably and honestly. That's has been our policy for the last hundred years. Mr. Chairman, they don't have the licence only on that statement; to my knowledge, all other major companies, Sir, act very ethically, very much so. It's not their goal to take advantage, as simple as that. I've been attached to the companies; there'd be no need to mention the name. Our lawyer, at the time, used to remind us - by us I mean the landman - day-after-day, under no circumstances you misrepresent our position or our attitude so that, in the event of some discrepancy in the field, we don't want to appear before a Royal Commission or any other commission or any charges. Well that particular lawyer became Supreme Court Judge and I really am grateful to him because he thought legal aspects and business ethics, and when I listened to that enquiry in Virden, and when I listen here to Mr. Kohaly, how he made a fork out of the needle, Mr. Chairman, I think it was an insult; an insult, not only to the rest of the people of the area outside of, even members of that association, but it's an insult to the petroleum industry as well.

Regretfully the Honourable Minister of Natural Resources is not here. I was just going to give an example very quickly what might happen in our everyday relationship between those that appoint themselves to be a spokesman, or politicians. If I would go today to people of Manitoba and tell them, according to the detailed estimates of the revenue of the Province of Manitoba for the fiscal year ending March 31, 1984, Natural Resources, Water Resources, Mr. Chairman, \$11,283,900, I repeat, \$11,283,900, that's estimated revenue of the Natural Resources. Now, if I would go even to my neighbour and tell him that Hydro has to pay the Provincial Government that amount of money for using the northern waters he probably would call police and psychiatrist, never would believe that the

user of the hydro has to pay the Provincial Government for use of the water. Well, obviously you can wipe the issue to the extent it becomes hysteria - by the way, you'd better think about it because the other party won't say a word, it was under them, too; maybe somebody should do something. To me that hysteria was created with the oil companies and all of a sudden people started to look for trouble protection. My God, Mr. Chairman, don't come to my place during calving period, don't come when I seed, and don't come when I harvest. Well, darn it when my company sends me on certain assignment during the harvest I drove the truck the whole day and the farmer phoned his lawyer, and the lawyer waited at night and we closed the deal and there was no sign, Do Not Disturb. There are all kinds of ways to deal.

Now, why why everything has to be done by law, law, law and finally you will have to build a new building to accommodate, Mr. Chairman, all the laws that you build, that you have every Session, and you don't have a campfire to celebrate some occasion and burn the old one. We also have had, way back in this province, under double Honourable Minister Roblin. I call him double Honourable because he is a Member for Privy Council, obviously Honourable, and also Senator so it is double, well I would add a third one, triple Honourable because he deserves it. One of the things that he did, he ordered, upon some representations from the field, including myself at the time, Mineral Transactions Enquiry Commission, December 4, 1959 there was already 1,486 wells drilled in Manitoba. Now, the Commissioner was Justice today, Winston Norton and his lawyer, today Senior Judge Ian Dubiensi, and they certainly had a very exhaustive investigation, what kind of methods were used in transactions so that people would understand what it's all about. I give you terms of reference, and please pay attention, there was not one squeak or complaint about the surface rights whatsoever. Letter of Transmittal Order-in-Council Acknowledgements: 1. Introductory, (a) Reasons for investigation, (b) Outline of the proceedings of the commission, (c) The petroleum and natural gas industry in Manitoba. 2. Complaints. 3. The documents used in the mineral transactions. 4. Evidence of mineral owners. 5. Evidence of landman. 6. Evidence of land brokers, evidence of beneficial owners, court actions involving mineral disputes, general conclusions. A. Land Brokers and landman, mineral owners, position of trust companies, commissioners for oath, purpose of acquiring an undivided one-half interest in mines and minerals. Reference to the commission, fraud or misrepresentation, transactions in substance. Oppressive or unconscionable recommendations of the commission, summary of the recommendations of the commission.

Mr. Chairman, the outcome was served in general, whatever document and operating company wants to use pertaining to mineral rights, leases or outright purchases have to file, I believe, with the Security Commission - if that's correct English. They check out the document. If they approve the document, then one leaves the copy or one has to leave the copy with them and can use it - simple. Why not use the knowledge and performance of the past members of the government undermining board? Either draft, one document applicable, or let every company file the

document for approval the kind of document they want to use, because this is a transaction not between government and oil companies, between farmer or owner, surface owner or surface user.

What I am very concerned about is that this issue became a political football. It's not my observation, but I don't think it's very wrong. The young man, Mr. Chairman, the enthusiastic Minister of Natural Resources, when he went to Virden he saw the opportunity to "improve" the relationship, but he was fed with the wrong information. When one citizen, or two, or 10, or 20, or 100 will tell you that your law is N.G., are you going to call a special Session? My God, look again, 3,300 wells drilled. Try to move 3,300 times your finger, how long will it take? Here's the equipment that had to be moved all over, and what kind of equipment? At this point I wish, Mr. Chairman, I appeal to you, Sir, and the members of the committee, you should go, before you do anything else, to the field and spend at least a day or two and see what it's all about.

Mr. Chairman, Mr. Minister asks as if he would invent the wheel. Mr. Schreyer, when he had a little problem - I won't go into all the details - that's what he did. He went over; he spent the whole day. I remember Mr. McGregor was mad as hell that he wasn't invited to the meeting - but he went to learn. Of course, the Minister naturally was more open because Mr. Schreyer went to get the knowledge and Chevron divided it in two parts: one, theory; and one, practice in the field. Well, the Minister did differently, Mr. Chairman. He's still got the farmers; they just about called the Mounted Police, the army, and EMO to figure what's going on, farmers marching from all over one spot. That's what I was told, I wasn't there; it was last summer, I think, or the summer before last.

Now, talking about EMO - I hear the Member for Virden spilled water here, spilled water there. Mr. Chairman, the oil companies on their own initiative, together with the Minister's department, Sir, and other organizations have exercised every possible situation that might occur. They prepare on paper and in theory only that there is no oil spill, including the river crossing, that the river might be contaminated. Yet I did not hear in this House that recognition would be given either to civil servants, that is the departmental, or EMO or oil companies. Maybe again, good news doesn't travel fast; that's my observation. Nobody ever mentioned that to me; I just noticed that myself. You're lucky that I keep some material. I see some of you are already getting tired.

Now, if the situation would be so bad at Virden or Manitoba, you would hear also from the National Farmers Union, even though Roy Atkinson is no longer active. Let me tell you, those people are dedicated. I worked with them on the Canadian Co-operative Implements Limited on refinancing. If any company would take advantage in Virden of the farmer, it would reach them. You would hear very quickly about it, Mr. Chairman, so would the company. I never heard of interfering because there is no need.

The Honourable Member - not Melita, just hold it — (Interjection) — for Arthur - thank you, Mr. Minister, Sir - suggested that the companies could be so ruthless that they will come to your lawn, place the equipment and drill. Well, I respectfully submit, Virden is not that

far from Melita. Sixteen wells, Mr. Chairman, were drilled in that town and nobody complained because all the mineral rights had to be pulled together accordingly and they got royalties. When the centre of the CPR station was the centre of LSD, Legal Subdivision, Manitoba's spacing is 40 acres. They drilled directionally with the consent of the people of where to put the equipment. They put a huge chicken wire fence with heavy gates on it; no one got in. They drilled right next to the school, but in a park, and now someone will protect it. So why exaggerate that you can put without written law that a company could put the rig on someone's lawn. I think it's embarrassing both for Legislative Assembly, for the member, and now people whom he represents because that's plain nonsense.

Now, of course, I can't let it go by not mentioning Bill 36, The Agrolologists Act. The Legislative Assistant to the Minister sponsored the bill the other day which was debated. Why do you need four or five or whatever group of people on your board when you have experts without conflict of interest - that you are legislating them? Here, Mr. Chairman, already \$80,000, according to the Main Estimates for the Department of Energy and Mines, set aside for the Surface Rights Board. Good gracious. Here I go to the Deputy Minister; I go to the Minister, Mr. Chairman, and suggest because the present Assistant to the Deputy Minister is overworked, from my observation, made the change and have at least an Associate Deputy Minister, so they tell me, no money. How much money, 3,000 a year for such a responsibility, but there is over \$80,000 for board members. I repeat, again, Bill 36 has been debated the other day. It is very hard to accept it, very hard.

I don't want to insult you but it must be the truth, you are going after political gain in that area. It looks that way. Now if that isn't the case, are you going to say, no, with all the industry being overgoverned?

There is a gentleman's name I will mention who is well-known to some of you, Mr. Urbain Chaput, he's a director at the present of the Manitoba Telephone System, a retired Manitoba - Saskatchewan Corporate Director of Imperial Oil. If I would say something to you, and I don't expect you to pay attention but you're polite and, therefore, I have to. But when I will quote Mr. Chaput then you better not fall off your seats.

I have in front of me the Winnipeg Tribune Saturday January 29, 1977, Urbain Chaput corporate manager for Imperial Oil Ltd. for Manitoba and Saskatchewan is heavily involved in the area of government relations and his concern is special with such government industries issues as petroleum pricing transportation of Arctic Gas and federal land regulations. He dealt with these matters in a speech to the Faculty of Administrative Studies, University of Manitoba. Excerpts as follow, I will only give you one paragraph. "Drilling a well in the North West-Territories requires about 15 separate regulatory approval steps."

But, Mr. Chairman, ladies and gentlemen, we calculate that our industry is governed by at least 375 pieces of legislation administered by 275 government departments and agencies.

Mr. Chairman, you heard me. I passed the picture around. The Manitoba-discovered well, named California Standard, now Chevron Standard daily 15, 18, 10, 27 were spotted on November 16, 1950, six miles southwest of this side and completed in January

1951 at a depth of 2,500 feet in Missippian formation. This well proved non-commercial and was abandoned. Nevertheless in initiated the activity that has resulted in southern Manitoba becoming a significant area of oil production in Canada.

Mr. Chairman, ladies and gentlemen, the reason I mentioned that because that plot is too small than I even would pay for. Mr. Chairman, through you to Mr. Minister, bury that Bill No. 5 and we will build you a monument. You will be proud of it because you are creating, Mr. Chairman, unnecessary red tape for those in the future to cope with, to make life more difficult. Furthermore, Sir, the experience when retroactive legislation was introduced retroactive to April 1st '74, introduced in the end of '74, Virden just about became a ghost town. You want repetition again? Remember your legislation is dealing with surface rights. You're not telling the oil companies, you have no power to tell them what to do. They very nicely can walk away, some of them at least.

So you take under consideration what could be the consequences of the bill that you're going to have without any doubt of course. After all it is too good to omit, Mr. Chairman, from the books.

Now the largest operator of course in the Virden area is Chevron. I have information here back to 1979, they are the fifth largest producer of crude oil in Canada. Look how awful they are. 1978, Mr. Chairman, 1979, Chevron on their own free will without being asked, from \$1.50 a hydro pole increased to \$10.00. No legislation, nobody told them. Became a nuisance, talked over with the people. They did.

The same year, Sir, without restricting generality, in other words those farmers who had mineral rights and collected royalties and still had the surface rights and those that did not have mineral rights but only surface rights, whatever price was way back in the '50s. In '78-'79 they increased to \$125 an acre. There was no legislation. Nobody compelled them. . . goodwill on the part of the operator because they also made some money despite the fact that it was an old oil and your old legislation took up to 40 percent income, not tax deductible. Don't want it to go into all that. Get too angry over it.

Now to give you a better idea, I looked up the government records. Same Chevron, by the way now it's Chevron Canada Resources Ltd. It is a very important thing to notice, it is incorporated with a Canadian President, Dr. Henderson. Now to give you a better idea what Chevron is you all heard about the love affair between Newfoundland and Dominion of Canada pertaining to who is entitled to oil royalties or decision-making re: Hibernia wells. I will not go into that detail. All I want to tell you, Mr. Chairman, ladies and gentlemen, is that Chevron was in charge of consortium who pinpointed the area and discovered the oil.

I will give you another example so that you will visualize with whom you are dealing. I will tell you about them further, only one example. They discovered West Pembina. Doesn't mean much to people of Manitoba of course, but in petroleum industry it means a little bit. Their best well in West Pembina produces 5,000 barrels in 24 hours. That is just about the half of all the production that we have daily from our wells. So, you're not dealing with kindergarten kids eh? So, if

they can do, technically and exploration-wise, a near miracle, surely, you can rely on their good will that they are not in to take advantage of a farmer; they are the partner and before the open season started from Ottawa on the oil companies, it was the most beautiful relationship between the oil companies and farmers, as partners, except you, up to now. Mr. Chairman, whenever politicians stick their nose in matters - and I make a clear reservation, I don't want to insult you yet - things happen not the way they should. I'm just wondering how I can cut down when you're suffering; some material I won't present to you today.

Mr. Chairman, I would like, once more, to come back to the enthusiasm, through you, Sir, to the Honourable Minister. The Winnipeg Free Press of Saturday, January 29th, 1983: "Loss favours oil drillers - farmers say." So help me, Mr. Chairman, loss favours oil drillers, farmers say; look who is the farmer. Virden, Manitoba, Canadian Press: "Manitoba's first attempt at improving the rights of landowners who must deal with oil companies drilling on their land doesn't go far enough," says the lawyer for the Manitoba Surface Rights Association. The proposed surface rights act now before the Manitoba Legislature gives the oil industry too much say, Bob Kohaly told the meeting of the association Thursday." Whoa the reverse in his standing back to '53, and on, when he was in the House. "He said his major concern is the membership on a board created by the Act of oil industry representatives." He already knows for sure who is going to be on the board. The board can decide on the compensation to be paid to landowners when an agreement cannot be reached with an oil company that wants mineral rights."

Mr. Chairman, here you are, through you, Sir, to the Minister. The Minister was talking about surface rights, etc. Mr. Kohaly, with the press, and it's not only in the paper, but on the electronic media, they tie in the mineral rights. Now if you ever mix apples and oranges together, this is the exclamation mark after saying so; it has nothing to do with it. That's an example of misinformation and people go after it.

"The board should only include farmers," Kohaly said. "The Act also allows the board to give an oil company the right to drill 14 days after an application has been made, which could permit companies to ignore farmers completely, he said. Kohaly criticized the legislation for being too free in allowing appeals of board decisions and said his group will make its concern known to the government before the bill receives third reading," and here is the punch line, "Every single order that goes out daily (oil companies appeal), he suggested at the meeting, if there is one thing that oil companies have and you don't, it's money."

Now, excuse my language, Mr. Chairman, and ladies and gentlemen, nuts to him. The oil companies don't go after hurting people, they struggle for the best co-operation they can because the farmer today would not be able to operate without the oil companies and vice versa. Where do you get parts of your fertilizer, from high heaven? Sure some of it comes, you can do it with acid rain as well.

Such nonsense; it's fabricated. We couldn't do any better, experts in psychological warfare in Italy against Germans and Italians. This is an example of an excellent way, from a psychological point of view, of psychological warfare. Just a trouble stirrer in simple language. Then, Mr. Chairman . . .

MR. CHAIRMAN: Excuse me. Mr. Kucharczyk, could you give the committee some indication of how much longer you'll be? We still have four other speakers we'd like to hear today.

MR. W. KUCHARCZYK: Mr. Chairman, after 30 years, being proud to work in that industry, and paying through taxes the salary of the First Minister with indemnities from the taxes, I think the people of Manitoba should benefit and the Government of Manitoba, from my know-how. I will finish as soon as I can in a few words. I regret that some are in a hurry.

Mr. Chairman, Wednesday, 16th day of March, 1983 in Hansard, that's 2 p.m.: "I am told, by people in the oil industry, and people that are affected by activities in the oil industry that the Manitoba legislation that was in place prior to the bringing in of this Act, was machinery that was very difficult to work with. It was slow, cumbersome, and basically ineffective, so if we can find something in this bill that will expedite the activities of operators in the oil field that will deal adequately with, and protect, the rights of those who are affected by activities in the oil field, then I think we should look at the bill, look at it carefully, and be thankful that we have legislation coming forward at this time."

Mr. Chairman, I am taking exception to a statement like that because the civil servants were insulted who had no way to answer it, and the Mining Board set an example in this province that other provinces copied the performance; 3,300 wells, again, and the member here makes a statement like that. Shame.

Only one or two more examples. Furthermore, it was mixed up, there's no need to read. Anyone can read Hansard. There was a mixup here that this bill should particularly protect those that have no mineral rights, just surface rights only. I say to you, Sir, you cannot legislate, you cannot legislate every aspect of human life. You have to leave it to the people to be able to come to conclusions and beside how many complaints have you had and begging for your help since you do not wish to hear any more I leave it to you, Sir, to go through the Hansard. However, I shall quote one more paragraph and perhaps I will be through with it.

Mr. Chairman, on Page 792, Mr. H. Harapiak: "Mr. Speaker, in the absence of the Minister I would like to acknowledge the contributions that the Surface Rights Association has made towards this bill." What a political statement! There's nothing wrong to make political statements but I don't think it's a right tree to bark at. "We would also like to acknowledge the work that Ross Nugent carried out in bringing this bill to the point it is right now." Mr. Chairman, as I said from the beginning, that thing snowballed to the extent that you are here. From my sources it was just general enquiry to find out is there actually anything happening in that field. Mr. Chairman, I respectfully submit you can dig back since 1959-60, transcripts of Norton's Inquiry, you cannot dig one out from Nugent's Inquiry because it was not recorded, Sir, and it's not available, the transcript of it. There was no seriousness in the first step and became over-exaggerated and if you do not believe me, Sir, ask the Honourable Minister.

We realize that there are some questions still being asked, etc. It is not important and the answer, it says,

some members have suggested that it should be made up strictly of the agricultural industry and we feel that the oil industry should also be represented on the boards. They have a stake in it as well, now isn't that sweet, Mr. Chairman, not covering every movement of the oil industry then finally we recognize that the oil industry has to express their opinion, self-explanatory. I don't want to insult the Minister he doesn't deserve, Sir, through a statement of his legislative assistant.

In conclusion I'll only say, be guided by the welfare of the people, don't be guided by political gains because farmers are shrewd as hell. Yes, they will tell you one - and I can't say they're crooked - they will tell you one thing but they assess the general economic situation and from enthusiastic support you might find otherwise. Why I'm saying that, when Mr. Schreyer introduced retroactive legislation the farmers came over and asked the oil company to shut down the wells so they wouldn't pay the taxes, how do you like that? It's a question of crude oil for all concerned so in a nutshell, I promised my daughter I would use that expression if you can stand it. In a nutshell, Mr. Chairman, don't be misled by the lawyer from Estevan, Saskatchewan. By the way we have lawyers in Brandon and Virden, as well, so you make up your own mind.

Secondly, Mr. Chairman, don't try to compare Saskatchewan to Manitoba. They have much more arable land than we have they are affected much more by the industry than we ever will because they are more than 20 percent, I think, of total oil, if my memory serves me right. In Canada, so long as bugged all, excuse, damage on the surface. Don't be also misled, Sir, by the cries that we have no law. Our law, Sir, our Mining Board today, you will be completing Bill 36, we have complete avenue to independent opinions as the gentlemen of the board have had in the past, do yourself a favour, treat Canadians as they deserve but don't saddle them with the yoke of the law. Thank you.

MR. CHAIRMAN: Are there any questions for Mr. Kucharczyk. Mr. Parasiuk.

HON. W. PARASIUK: Mr. Kucharczyk you indicate that Chevron increased their royalty payments on some leases which, in a sense, were almost perpetual leases, is that correct?

MR. W. KUCHARCZYK: I beg your pardon?

HON. W. PARASIUK: You indicated that Chevron increased their royalty with respect . . .

MR. W. KUCHARCZYK: Not royalty, Sir, delayed rental payments.

HON. W. PARASIUK: They did increase them.

MR. W. KUCHARCZYK: On their own free will it doesn't matter if one had mineral rights or not.

HON. W. PARASIUK: Can you tell me whether all the oil companies did that, Mr. Kucharczyk?

MR. W. KUCHARCZYK: Sir, I did not research, I learned from the largest ones because you also pay attention to the largest ones.

HON. W. PARASIUK: Well, no, when I went out there I found out that many many farmers had not received any increases in rentals and that's why I was just asking whether you were aware of whether all the oil companies had done that of their own free will?

MR. W. KUCHARCZYK: Sir, I am not, but since they produce over 65 percent of all the oil in Manitoba then I took for granted that the others will copy them because actually they set the tone of the operations.

HON. W. PARASIUK: You also indicate that the oil industry is terribly saddled with laws and regulations. Do you believe that the laws and regulations have impeded the oil industry?

MR. W. KUCHARCZYK: Depends on what area, Sir, and depends which oil you're talking about. If you're talking about the oil prior to April 1, 1974 to a very great degree till the period of - increasing the price occurred. As the new oil is concerned, Mr. Chairman, I'd like to take this opportunity to congratulate the Minister that he did something that Mr. Green killed before, he helped with the new oil tanks. He took advice, I assume, from the director. The director had the same advice way back for previous people and they didn't take it.

HON. W. PARASIUK: I don't want to use this as a debating forum on the notion of government having to play a role with respect to husbanding the oil resource which is basically the major role that it plays. Do you believe that the mineral rights and surface rights should have been separated in the first instance?

MR. W. KUCHARCZYK: Mr. Chairman, I will answer this question as follows: When the first advice came to Mr. Schreyer about two-and-a-half times formula I told him bluntly, Ed, have the guts and let's have all the natural resources administered by one central agency in the Dominion of Canada or however you said. I am for, when it comes to natural resources to be looked after one body but not banana republics, one after another and each one has a different law. I agree with you, Mr. Chairman, that as far as separation is concerned it's a physical impossibility today because you can't change - you try to tell Hudson Bay Company to surrender their mineral rights. You know what would happen. You would have the House of Lords marching in Winnipeg for sure.

HON. W. PARASIUK: Then, does some of the problem arise historically because of the fact that surface rights and mineral rights were separated and that there are people who receive certain types of benefits from mineral rights and other types of benefits which always aren't the same from surface rights?

MR. W. KUCHARCZYK: You're right, Mr. Chairman, when I address myself to you, Mr. Chairman, applicable, of course, to Mr. Minister.

MR. CHAIRMAN: Are there any further questions?

MR. W. KUCHARCZYK: Before you write me off, I will tell you, Sir, how powerful this thing is here. You most

likely won't believe - I even forget what they wrote on it. It says, "Thank you for getting CI on-line, 1979. CI, Co-op implements." Why am I before you and took so much of your time? I believe in a challenge. When Mr. Schreyer refused, before an election, to help CI with 1,150 employees, and Mr. Craik announced in the House that he was not going to help any co-op, etc., etc., it just happened that I had the guts to go to Ottawa, saw Senator Molgat, set up the meetings, Molgat took to Ottawa to caucus, bypassed Treasury Board, Sir, straight to Cabinet and they got \$8 million, 10 years interest-free; and the government of Mr. Lyon, at the time, together with Saskatchewan and Alberta - there was no objection from Saskatchewan - \$7 million and then Pool elevators, etc. What I'm saying is, no challenge here for anyone who believes in himself in the right way of the approach. Mr. Chairman, that's why I brought this thing with me. There were some other issues. If the Honourable Minister of Corrections today would be here sitting as the Minister of Industry and Commerce, he would say, if Walter took your time, you better listen carefully, I'm sure, because it's not a conflict of interest. I'm retired. I'm only waiting for you to make up your mind to go ahead with the potash mine. Don't wait four years for the price to improve, or five; start working now.

Thank you, Sir.

MR. CHAIRMAN: Thank you, Mr. Kucharczyk. The second person appearing on my list is Mr. Bob Puchniak, from Tundra Oil and Gas. Is Mr. Puchniak present?

MR. B. PUCHNIAK: I'm Bob Puchniak and representing Tundra Oil and Gas.

Mr. Chairman, Tundra Oil and Gas is not exactly a household name and we certainly don't rank amongst the heavyweights in this industry, certainly not Imperial Oil or anything and, therefore, I think I should just give you a brief background to our firm.

We're a private company, an independent oil producer, operating exclusively in southwestern Manitoba. The company is owned and operated entirely by Manitobans. We have offices both in Winnipeg and Virden. We currently operate 30 oil wells, four water disposal wells and have 20 surface rights agreements outstanding with Manitoba landowners. Our activities range from Regent in the east through Waskada, Pierson and Tilston in the southwest corner, up to Daly and Scallion in the immediate Virden area.

I just wanted to indicate that we do have a major interest here and that we do cover the waterfront in terms of participating and having some exposure to most of the producing areas of the province.

We fully support the objectives of "The Surface Rights Act," particularly as they relate to resolving potential conflicts between the agriculture and oil industries. Many segments of this proposed legislation are a very definite improvement, including provisions to protect the land occupant, as opposed to land owner, provisions to pay interest between the time of land entry and the ultimate board determination of compensation, provisions to allow the land owner adequate time to review documentation before signing, and so on.

However, there are some segments of this bill which, from my own point of view, perhaps require more

clarification than they do modification, because I'm not so sure we understand it. First of all, under Part II, Section 6(2), dealing with the composition of the board.

Mr. Chairman, the Surface Rights Board is, indeed, the heart and soul of Bill 5. It has extremely broad jurisdiction and authority and we think it's absolutely mandatory that the board's membership be composed of equal representation from both the agriculture and petroleum industries, in addition to other independent arbiters. Such participation would assure understanding of the peculiar problems faced by each side, and any suggestion that the board be comprised of representatives solely from one group or the other is, I think, illogical and inequitable.

Under Part III, and I think this is something that perhaps just needs clarification, and if it needs clarification to us, perhaps it needs some redrafting so that it does become understandable to everyone; it's with respect to compensation, and it's Item 26(1).

The proposed legislation seems to suggest that existing oil companies should be responsible for paying the cost of cumulative damages incurred by previous operators. If that's the case, it seems most unfair to us. Our company, as an example, got started three years ago, in 1980. Is it fair to award compensation, or make us pay damages, that were incurred by previous owners? As I say, I think that requires clarification. I'm not so sure that is, in fact, what is intended by the legislation.

Under Part III, also with respect to costs, Item 26(3). It appears that all costs of board proceedings are to be borne by the operator. In so doing, you are encouraging land owners to apply for arbitration without serious prior negotiation. They really don't have anything to lose. Such a response will delay drilling and jeopardize the position of oil companies facing lease expiries.

Under Part III, Application for Variation, Item 30. This section appears to provide for a forced opening of previously negotiated surface rights agreements in order to alter the compensation payable. If so, such retroactive application of new legislation would, we think, be totally unacceptable and an extremely dangerous precedent. As an example, when the Province of Manitoba floats a new issue of bonds, does it voluntarily re-open the bond indenture in order to increase interest rates payable to the bond holder because interest rates have subsequently risen? There are all kinds of examples. It's not only the Province of Manitoba, but I think as an example, in 1966, the Province of Manitoba issued a bond issue that was a 30-year issue at 5.75 percent. Those bonds are still outstanding. The province hasn't voluntarily re-opened it. It's a contract that's signed and sealed and is outstanding for its term.

Under Part VII, Section 68, we do not express any strong opposition to a universal form of Surface Rights Lease, in fact, I think it may solve several problems. However, we hope and expect that both land owners and operators will be allowed input in developing the prescribed form of agreement. Those are really the five areas with which we have some problems.

Mr. Chairman, in closing, I would like to say we are pleased to have had the opportunity of raising these points with you in the hope that some fine tuning can be accomplished before putting the finishing touches on this important piece of legislation.

Thank you.

MR. CHAIRMAN: Mr. Parasiuk.

HON. W. PARASIUK: Mr. Chairman, I'd just like to clarify the point regarding compensation. If an operator takes over an existing well, and there have been some damages in the past that haven't been properly dealt with, is Tundra saying that when they take over that existing well that they should only be dealing with that portion of damages that relate to their own operation? There might have been two or three operators of an existing well who have been operating that well over a period of 20 or 30 years. There may have accumulated a set of damages that have to be dealt with otherwise if one takes over any type of business, that business has to pay for whatever damages have been accumulated over a period of time.

MR. B. PUCHNIAK: The example that I refer to, Mr. Minister, is an actual one. The Tilston area of Manitoba was originally developed by California Standard or Chevron. That was in the 1950s. They produced the wells and there was salt water damage on the surface of those properties at that time. The wells essentially all had been abandoned. We came in there in the late 1970s, '79-80, and in approaching the land owner for damages, well all of a sudden we became responsible for what was done in 1955. Those wells had long since been abandoned. Should it be our responsibility, or should it have been the previous operators? It makes it difficult for us to come in and be expected to recompense someone for something that had happened 25 years previous.

I think what you're referring to is if there's an existing oil well which we were to acquire from someone else, I think in that instance we would assume the obligation because it's an ongoing thing. There are instances like that particularly, fields which had been developed originally, and had been depleted or were not deemed to be economic, where today we think we can go back in and redrill them because the price of oil is higher and the economics have changed.

HON. W. PARASIUK: Well one of the purposes of the Act is to ensure that people can't walk away in the future from wells leaving damage. That's one of the things that we're trying to correct so that we don't have instances like this into the future. But at the same time wouldn't you agree that it was the drilling of the well and the operation of the well that caused that damage to that farmland. It may be the people walked away from this in the past, but if people are going to come back and revive that well for economic gain shouldn't some of that well's wealth be used to ensure that a farmer can again farm the land around that well? It was the drilling for the well that created the damage in the first instance.

MR. B. PUCHNIAK: Well the people that got the benefit from that well would not have been Tundra Oil and Gas. It was the predecessors whomever that may have been. All I'm saying is that there probably should be some starting point from which this takes effect. Otherwise you're not going to see those properties

developed. If we're going to take on an unknown or an uncertain potentially large risk for damages that occurred decades ago, I think we would just as soon not be involved.

HON. W. PARASIUK: I think it would be of intention of the Surface Rights Board to take those different factors into account. I think that would certainly be, I would think the desires of the farmers as well in the area that those factors that you raise be taken into account.

At the same time there is that outstanding question of damages in the past. The farmer in some instances cannot use that land at all. There are instances of that in that area. I think it's incumbent on the industry and agriculture to find some way in which that can be prevented in the future and to find some way - and this often entails compromise - of trying to sort out those particular inherited problems from the past without getting into what I would call too specific a mode of buck passing by saying it was somebody else's fault or somebody else's problem. Otherwise all that'll happen is that the suspicions will increase rather than decreasing the suspicions. What we're trying to do is establish a means of decreasing the suspicions between both industries and establishing ways whereby they can work together.

MR. B. PUCHNIAK: If I just might make one last comment. You have it definitely covered in this new proposed Act. All I'm suggesting is that we not be asked to bear that burden of a predecessor.

HON. W. PARASIUK: I have one final comment actually, because you did ask a particular question to us in your submission Part VII, Regulation 68, regarding a universal form of surface rights lease. It is the intention of the government to circulate a draft universal surface lease. We're at the final stages of its preparation. We certainly will be circulating to the agricultural industry; to the oil industry to get their responses on it before any final version is put in place.

MR. B. PUCHNIAK: We'd be glad to participate.

MR. CHAIRMAN: Are there any further questions?
Mr. Graham.

MR. H. GRAHAM: Thank you, Mr. Chairman. Mr. Puchniak, just to further clarify the point that Mr. Parasiuk first raised regarding going into an old field and redrilling. When you do that, do you use any of the existing facilities that are there, such as existing salt water lines? Everything that you do is new then is it?

MR. B. PUCHNIAK: Yes. In our own case anyway we didn't even re-enter the old wells. We drilled 50 metres away or whatever the petroleum branch agrees is a suitable offset. It would be foolhardy to go in and use old lines and so on. We put in new fibreglass lines and so on. We also put in a new disposal facility there and so on.

MR. H. GRAHAM: I think it's important to the committee that we understand the differentiation there.

MR. B. PUCHNIAK: I think as I say, as opposed it being a continuation of a previously ongoing operation, it was really an old field that had been abandoned. We come in from scratch and try to do it all over again and recover the undepleted reserve of oil.

MR. CHAIRMAN: Mr. Parasiuk.

HON. W. PARASIUK: Do you use any of the old core samples from the original drilling and the information that was developed through the drilling program?

MR. B. PUCHNIAK: Absolutely. That's an invaluable source of information whether it's the cores or the samples and the logs and the drill stem test information. I think it's really not under this committee's jurisdiction, but the core lab that you have out at the university, because it is such an invaluable source of information, a few dollars to rearrange it, so there's actually quite a few cores that have gone missing over time. They're listed as missing, but I don't think they really are. They're just misplaced within the buildings at the university and then at Brady Road.

In terms of encouraging development of the resource, the easier it is to get that historical information, I think the more readily people will look to this province and attempt to further develop the oil.

MR. CHAIRMAN: Are there any further questions?
Mr. Scott.

MR. D. SCOTT: Yes, Mr. Puchniak, I have, on I guess the second point I believe that you raised, or is it the first point on the Surface Rights Board on the representation, you mention your desire for an equal representation from the agriculture and the oil industry. The clause provides for members of the board beyond that as well, I believe. I'm wondering what sort of suggestions you may have for the non-agriculture, or the non-oil interests as appointments to the Board as well?

MR. B. PUCHNIAK: Those individuals could have extremely varied backgrounds. They might be from business; they might be homemakers. I think as long as they are independent, intelligent people willing to weigh the facts from either side, I don't think they need represent any particular interest at all.

MR. D. SCOTT: Okay good. Thanks very much.

MR. CHAIRMAN: Any further questions?
Seeing none, I would like to thank you for taking the time to come back today, Mr. Puchniak.

MR. B. PUCHNIAK: Thank you.

MR. CHAIRMAN: The third person on my list is Mr. John Phillips from New Scope Resources.

MR. J. PHILLIPS: Good morning, Mr. Chairman, ladies and gentlemen. My name is John Phillips and I am appearing on behalf of New Scope Resources. New Scope is basically a small Manitoba oil company, the majority of its activities are located in southwestern

Manitoba, and approximately 40 wells are currently on stream. We are planning a drilling program which would see approximately 60 wells drilled over the next year. On that basis it does have a fairly heavy interest in the surface rights problems in the province.

I just have a couple of points that we want to address and actually being this far down the list, most of it has been fairly well hashed over by the people that have preceded me.

Basically, my view is that one of the most important aspects of this bill is the composition of the board. Just on that basis, I would basically adopt Mr. Henkelman's remarks. Mr. Henkelman was here on April 7th, on behalf of the Canadian Association of Petroleum Landmen.

It is unfortunate that such a board is needed in getting people together for the drilling of wells, but as it is, people will be people and quite often they will not see eye-to-eye or be able to reach an agreement. It would appear that some sort of method of arbitrating disputes like that is required and such a board would be a valuable addition to help solve such disputes. But this board should not be viewed as protecting or promoting the interest of just one group at the expense of another.

In the surface rights area, it would appear that the two major interests that are involved are the petroleum industry and the agricultural industry. The role of the board should be to see that the rights of all the parties are protected to the maximum extent possible and to facilitate the inter-action and co-existence of both the agricultural and the oil industries since neither are going to go away and they are going to basically have to get along with each other in the future.

I feel that it is wrong as some people who have made presentations to suggest that such a board should be just a champion of the rights of landholders. That view is just too narrow. As Mr. Kohaly of the Surface Rights Holders Association emphasized, he tried to emphasize the importance of the agricultural industry, pointed out that there is not much sense in having people in the world warm if they are hungry. It is a valid statement but it is not the total answer to the problem.

It has got to be emphasized that both the agriculture and the oil industry are essential to both the interests of our country and of the world since it would be equally valid to say that it's not much sense the breadbaskets of the world growing all the food that is necessary if the energy isn't there to distribute it.

The situation involving mineral rights holders and the surface rights holders is that - and my impression was that a lot of people seem to view the fact that if you only control the surface that those should be the paramount rights that are involved. However, the very term of mineral rights would indicate that there are rights there. That the holders have a right to be protected from and to be able to maximize and utilize those rights. One way to ensure that this would happen would be to ensure that the board has representation from the oil industry as well as the agricultural community which the current wording in my opinion doesn't really provide that. It talks about the people who have knowledge of the agriculture, the local area or the oil industry, and perhaps that "or" should be changed to "and" so that you're dealing with people that are familiar with all aspects of the problem and not just the fact that they have been farming in the

area for 20 years and they know the area. I think it is vital that the oil industry does have representation on the board so that there will be a fair representation and hearing.

The idea of having a board will be that most of the time people will be able to reach agreement on the situation that's before them. However, there will always be cases where there will be disagreement. That's the time when the board will really fulfill its role as an arbitrator. To do that, I think you need an impartial and objective board. That cannot be done if its membership is stacked with representing either one side or the other.

In regards to the rights of entry, once again I just adopt the comments that Mr. Howard made on April 7th. Since the right of entry should not be really a question of if or not to enter, the holders of the mineral rights should have a right to be able to develop their property which the mineral rights is. It seems that the question of compensation is just a question of damages.

It's therefore our feeling that the right of entry should not be delayed through hearings before the board, but basically you are looking at a question of damages. How much damage has been suffered by the surface holder. That sort of question could be settled at a later date.

Also, my impression of some of the previous speakers was that they seem to feel that just because their crops in the field had suffered some damage, that they should not just be compensated for those losses, but that there should be some sort of element of additional profit on it, that they would have made in addition to whether they would have been able to take the damaged crops and market it. That seems to be some sort of windfall. My feeling is that would be an incorrect view of the situation. If a person suffers damages, they should be compensated for those. If it is greater than what they thought then the person or the entity involved, in this case usually the oil company, should have to pay for those damages.

But the main problem with the oil company a lot of times, is trying to get on the property so that they can drill to meet deadlines that are in the leases. Quite often by delaying an agreement in regards to the surface rights, a landholder can often use that as pressure point against an oil company to try to extort a higher value for the right of entry than would otherwise be just, given the circumstances in surrounding areas.

Also too, it could be used just to delay entry onto the land past the expiry date so that they could either, once again obtain a better deal than they had before, or there might be a top lease from another oil company if it's a real good lease, that they have top leased on much better terms. They could use this as a delaying tactic and then have the top lease come into effect. It is my feeling that that should not be a function of a hearing before the board like that, it would be to assist such delaying tactics. Therefore the right of entry should be able to go ahead.

The next point deals with the costs involved in such hearings. Once again this would tie in with my previous comments in regard to delaying in tactics. If a person wants to delay an agreement on that, they would even more likely to consider applying to the board as a delaying tactic, since he would have nothing to lose. All the costs are to be picked up by the operator. As

a lawyer that's involved in oil and gas matters, I am at a bit of a conflict in seeing this sort of thing, where the costs would automatically awarded against the oil companies. Just by the very nature of that, you should probably see just a flurry of actions and that would probably be good for business for the lawyers involved. However, as a lawyer that is involved with clients that are in the oil industry I'm appalled by the prospect that there would just be a flurry of potentially frivolous actions that would take up the time and energy of all the individuals involved, including, and especially the board, since there would probably be enough valid situations that the board should be concerned with that they shouldn't have to be dealing with just everybody having a free shot at the operator.

I would suggest that the cost should be made at the discretion of the board, somewhat similar to civil actions in court where, if a party stands a chance of being charged with costs, they're probably going to think through their action before they put everybody to the time and expense of having to defend their rights.

Once again, I just say that the actions of the government and this board should be to encourage parties to reach an agreement among themselves and, failing that, they should have some sort of resource which would help arbitrate those valid disputes, and these disputes are not always the oil company's fault.

The matter in regard to the review every three years. I'd suggest that this is probably a valid proposal in regard to situations where a board order has been imposed on the parties. When it has been imposed, that they should have an opportunity to review it, have the matter opened and reviewed. However, if there has been an actual agreement reached between the parties, it's my feeling that the agreement of the parties, if it is for a longer term than three years, which quite often is necessary for long-term planning, if the parties have seen fit to enter into such an agreement, obviously in absence of undue influence or anything like that, such a longer term agreement should be allowed to stand.

Another point is on the Evidence under Oath. This wasn't originally a concern of ours but was raised on April 7th by Mr. Kohaly, the Surface Rights Owners Association, and his comments caused me some concern, in that, honest people will tell the truth. However, we're basically concerned about people that would be willing to perhaps colour the truth a bit in order to obtain their own ends, and these are the type of people that we should be concerned about. Being put under oath will put the person that is testifying under the obligation to tell the truth, and there are penalties provided for those who see fit to do otherwise. These penalties may seem to discourage the dishonest person who is not willing to take the risk of being caught, but it also should be there to punish those that do see fit to lie and do get caught. It's on that point, that is why, since we are dealing with the rights of parties of people that are on both sides, the land owner and the oil company, testimony should be under oath.

With respect to Mr. Kohaly's concern that, by being under oath, that opinion evidence and hearsay evidence would not be available to the board. It should be pointed out that merely being under oath does not exclude opinion evidence or hearsay evidence; that sort of testimony is excluded through the Rules of Evidence and the Act already excludes the Rules of Evidence

so that such testimony would be available to the board if they desired to hear it. All that being under oath requires is that an individual tell the truth, and it would appear that that would not be too onerous a requirement when you're dealing with parties with rights of their own that are in an adversarial position.

One of the other matters that came up the other day was it seemed that there was some comments at directional drilling. It seems to be the end all and solution to a lot of problems where you just put a well down in one area and you can fire off shafts in all directions and you could save a lot of problems in regard to individual well sites. Just on that concern, we would point out that sometimes directional drilling is necessary, it's usually only under extraordinary circumstances since that, due to the technology that's involved with such a well, there is a large number of technical problems that can arise which would vastly increase the price of drilling such a well. These are problems that aren't usually present in the conventional well where you're just drilling straight down.

Also, with directional drilling you're usually dealing with a much longer hole to get down to a prescribed depth and that involves much higher costs in regard to casing, cementing, and other aspects of completing the well. Even then, once the well is completed, you need a special type of equipment to service the wells and there is not a large supply of such service rigs that are available in Manitoba, or even in western Canada at all; so there would be much higher costs involved in servicing such wells.

That was basically the comments of my client. Their feeling is that they are happy to see that the government is taking a step which can be seen as a major step in facilitating the interaction of the oil industry in the agricultural community which, by their very nature, have come into conflict in the past and will undoubtedly see valid disputes arise in the future. The people that I'm involved with, New Scope, have mentioned that they would be more than willing to have further discussions or input into the committee if such input would be felt to be helpful or desired and, on that point, I think I'll just break off.

Thank you for the opportunity.

MR. CHAIRMAN: Are there any questions for Mr. Phillips? Seeing none, then, on behalf of the committee I would like to thank you for appearing here today.

MR. J. PHILLIPS: Thank you very much.

MR. CHAIRMAN: The fourth person on my list is Mr. Cliff Calverley, private citizen.

MR. C. CALVERLEY: Mr. Chairman, ladies and gentlemen. I was told by a good friend one time that you could say enough in 30 seconds would keep you busy for your life to live it. So, I will attempt to stay brief as what the word is termed as.

Getting to the point, I must say that the decision to have a Surface Rights Board is very welcome, even if it's overdue it's better late than never. We are now looking at a board to protect those who only own the surface. I'd like to say, let's not make the mistake of placing decisions in the hands of those who have never

had to pick rocks to make a mortgage payment. If we don't put responsible people on this board, and if we don't let them have teeth, all of the work that has been done up till now will be for nothing.

First of all, the government loses if the board is strangled in red tape and self-importance; it will lead to further erosion in the credibility of our political system. I might add that we all know how the government organizations work, I think everybody has had an experience of how slow government works. For example, by the time our economy was declared a disaster area half of us were broker, or out of a job. Some comfort to know that our leaders finally found out.

I'd just like to say that with this board that's being established, that they have to have power to make decisions and they have to have the same power to make it stick. If it just gets tangled up in red tape it's all for nothing.

Secondly, and finally, the farmer loses - maybe I should say producer - this is what it's all about, isn't it? The farmers have finally been persuaded by all the experts to get all of our land into production. We've spent the 30 years being, I don't know if propaganda is the right word but, we spent the last 30 years under a lot of impression and a lot of influence to increase our land, to get every available acre under production, and I really don't think it's fair that some person can just walk in and say that we're going to drill a well site here and you just shut up and bear it. That's why we need this board. I just wonder what would happen if a farmer went in and ripped up an oil executive's yard and his lawn, just so he could increase his wheat production, because people in the world need wheat to eat. I assume that he'd soon be in jail if he tried a stunt like that. Well, all I say is that we need a board that is responsible to those who work, clean and produce on that soil.

In conclusion then, let us choose a board whose members are actual surface owners and let our government give this board enough power to make the oil companies responsible for their actions.

Thank you very much.

MR. CHAIRMAN: Are there any questions for Mr. Calverley?

Mr. Santos.

MR. C. SANTOS: If the members of the board be limited to those who are active surface owners, would that not present some kind of self-serving notion in making their decisions?

MR. C. CALVERLEY: The problem is the farmer is an individual, he's independent, and I think that if it is a divided board that it would not be fair to the farmer. He is the one who owned that land, he is the one who went and put other land up for collateral to buy it, and I think that it should be protected by those who understand the problems. Maybe some would take exception here, but I've seen too many organizations that have gone to ruin because the head of the organization is so wrapped up in himself, and the initials that he has behind his name, he's so wrapped up in himself that's he's a very small package, and I think

that you can see that in any organization, that it starts out very well and then the people with the most initials seem to get to the top, and then that organization is just like a committee and it soon becomes wrapped up in itself.

I think that if you have people who are actual producers they understand what a well site is, they understand what cattle are like, they understand what fences are like, they understand what roads are like to go around. If you just take a person who has maybe a degree in Agriculture, but he only has a 10-acre estate on the Red River, he doesn't understand any of those problems; so my point to the committee is, I do believe that it should be all producers to protect those who are fighting for this board.

MR. C. SANTOS: True enough, they will be protecting their own interests, but how can they reconcile their own particularistic interest with the general interest of the province, unless there is some kind of a counterbalancing interest in the board?

MR. C. CALVERLEY: I may say that I don't know if this is true with all oil companies; I don't have those facts available, but most oil companies have more revenue than the individual farmer; they usually have, as in my case who I dealt with, a bank of lawyers to draw up contracts for me to sign. They have the expertise; they have the knowledge; they have the money; they have the mode of communications; they have the computers; they have almost everything they need at their fingertips. The farmer is more interested in putting his crop in and taking it off than he is to go and see lawyers and to sit at a bench and to listen to committees, and I believe, that the oil companies have enough expertise that they certainly don't need any help on the board.

I may add that it has been tried in Saskatchewan and Alberta. It has been tried by having different members on the board and it has not worked; they have run into trouble with it. I believe, now both Saskatchewan and Alberta have total land producers on that board.

MR. C. SANTOS: Mr. Chairman, by counterbalancing interests I do not mean corporate interest. I mean the interest of people who have no stake, one way or the other, as to the direction, the decision the board will take. I have in mind, for example, the academic community, the intellectual elite, the non-interested group whose only interest is that the decision be correct.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Are there any further questions for Mr. Calverley? Seeing no further questions then, I would like to thank you for taking the trouble to come here today, Mr. Calverley.

MR. C. CALVERLEY: Thank you very much. Before we break for lunch, maybe I could give you an experience I had with a government organization. I hired a person last fall to help take the crop off. When it was all over I was informed by the Unemployment Insurance Corporation that I hadn't filled out a record of employment, which I didn't know about. Maybe I should just read this, it won't take too long.

It says, I got all the necessary information and went to their office for some help in filling this form out. The first three people I talked to in the unemployment insurance office didn't have a clue what I was talking about, to fill out this record of employment, so they lead me to the upper floor to see if the No. 1 lady could help me with my problem. After introductions, the lady behind the desk proceeded to question me, and it went something like this: Mr. Calverley, how long did this person work for you? Oh, about seven weeks, I guess. Well, Mr. Calverley, she says, in this day and age, 'about' is really not sufficient, we need to know exactly how long he worked for you. It sounds all right to me, he said. Well, for an hour we shuffled charts, answered questions, dates, garbage, and you name it, and when we were finished, the exact amount of workable weeks was six and four-sixths. Then she informed me, and she kept a straight face through this, that the computer has trouble with fractions, so we dig out a little book and on Page 1,962, under Paragraph (b), Subsection (c), the chart rounded off the exact figure to seven weeks. I guess it's my own fault, because when I said something to the effect that great minds think alike and fools seldom differ, I got a rather dirty look and the interview was over.

Thank you very much.

MR. CHAIRMAN: I have, on my list, one person who would like to speak on Bill No. 27. Is Sybil Shack present, or any representative of the Manitoba Association of Rights and Liberties? There is no one here representing MARL?

Mr. Parasiuk.

HON. W. PARASIUK: We won't go through clause-by-clause review of the Surface Rights legislation today but, if any members of the committee want to make a statement, this might be a useful time and then I'll take those under consideration when I review the Hansard of today's proceedings.

MR. CHAIRMAN: Mr. Graham.

MR. H. GRAHAM: Thank you, Mr. Chairman. Through the previous meetings and the meeting, again, this morning, I think we have heard some very worthwhile briefs; briefs that have pointed out the opinions held by some people or another regarding the proposed legislation. I think there are some serious areas in this proposed draft that the Minister may well want to consider and probably draft some amendments. I would hope that before we go through clause-by-clause consideration, that he be given the time to do that, and I would suggest to him that it might be to his benefit and to the benefit of the people of Manitoba and this committee if perhaps some representative of the industry and some representative of the Surface Rights people were to get together with the Minister and his staff, that probably many of the areas that concern has been expressed about could be solved and appropriate amendments brought forward to the committee. At the same time I would like to ask the Minister if he would be prepared to circulate proposed amendments to members of the committee before the committee actually meets to go through clause-by-clause.

HON. W. PARASIUK: Yes, Mr. Chairman, I will take the first suggestion of the member under advisement. Secondly I will circulate proposed amendments to committee members before we meet.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: Yes, the next meeting of Law Amendments is May 10th. It would be my proposal that Surface Rights be considered clause-by-clause on that date.

MR. CHAIRMAN: Is there any further business for this committee to consider? Mr. Penner.

HON. R. PENNER: Yes, I think we could, with respect, there are one or two bills that we might be able to clear off the paper. Mr. Parasiuk is Acting Minister of Health, I wonder with the agreement of the committee if we could take Bill 33, which is a minor Act and then perhaps while Mr. Evans is here, take Bill 27, an Act to amend The Social Services Administration Act.

MR. CHAIRMAN: Mr. Graham.

MR. H. GRAHAM: Mr. Chairman, I believe most members of the committee have not brought their

copies of their bills with them. We thought we would be fully tied up in Surface Rights. We may have to take a short break to get our copies of the bills.

MR. CHAIRMAN: Mr. Filmon.

MR. G. FILMON: Mr. Chairman, I know that our chief critic for those areas was in here earlier and asked how things were going. I assumed since we would go through these one-by-one that he would not have to come up. So, I think that he may not even be in the building at this point in time. I'll attempt to get him, but he did have comments to make. I know at least on Bill No. 33 and perhaps on Bill 27. We should at least take a break and try and determine whether or not Mr. Sherman is in the building.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: Perhaps we ought to do this: The Minister of Corporate and Consumer Affairs is in Brandon, as is the Minister of Highways. With the chief critic of the opposition on some of the bills not being here, why don't we just have committee rise and come back on May 10th and get to work.

MR. CHAIRMAN: Committee rise.