Legislative Assembly of Alberta

Title: **Monday, April 11, 2005 8:00 p.m.**
Date: 05/04/11
[The Deputy Speaker in the chair]

The Deputy Speaker: Good evening. Please be seated.

Before we start, may we get consent to revert to Introduction of Guests?

[Unanimous consent granted]

head: **Introduction of Guests**

The Deputy Speaker: The hon. Minister of Human Resources and Employment.

Mr. Cardinal: Thank you very much, Mr. Speaker. It's my pleasure to introduce to you and through you to the members of the Assembly 22 young visitors from the Redwater & District Pioneer Club. They are seated in the members' gallery this evening. They have just completed a tour and took a picture, and I'd like to thank them for that. I'd ask them to rise and receive the traditional warm welcome of the Assembly.

head: **Motions Other than Government Motions**

The Deputy Speaker: The hon. Member for Calgary-Mountain View.

Cleaner Energy Incentive

504. Dr. Swann moved:
Be it resolved that the Legislative Assembly urge the government to implement a royalty reduction program to provide incentives for industry to develop new technologies for cleaner energy.

Dr. Swann: Thank you, Mr. Speaker. This was developed early in our time as new MLAs, and royalty reduction was one of many issues that we talked about in relation to incentives for energy efficiency, cleaner energy, and renewable energy development. In fact, we don't support royalty reduction as the key approach to be taken in this approach to cleaner energy. We, in fact, want to make an amendment to the title of this motion, and my hon. colleague will be doing just that in the ensuing discussion.

The rationale for the amendment is in another way related to the Auditor General's report in 2003-2004. There was a recognition that the royalty reduction program to industry to provide incentives for the development of new technology is problematic. The Auditor General stated clearly that the Department of Energy needed to assess whether the royalty reduction programs are in fact "achieving their intended objectives" and, indeed, concluded:

> The Department's initial objectives were broad and did not have targets for the performance indicators . . . Without targets for performance measures and timely reviews, the Department cannot adequately assess whether program objectives,

that is, royalty reduction incentives,

> are being met, if the programs need to be changed, or if there is still a need for the programs [at all].

Indeed, there is a tremendous opportunity and a tremendous need at this time for incentives for renewable energy, for increased energy efficiency, for renewables. Climate change has created the context in which all of us feel a sense of urgency about the environment and about our dependence on fossil fuel resources for energy and the need, then, to shift and create the kind of opportunities and incentives that would be a win-win-win: a win for the environment, a win for human health, and a win for the economy, with new jobs and new technologies developing.

The traditional approach clearly has resided in systems of regulation and permits and enforcement, where government sets the minimum standards. But under this system, Mr. Speaker, there is no incentive for industry to improve its environmental performance beyond the minimum standards. Clearly, the stick approach has to be complemented with a carrot approach and applied in relation to, particularly, our interest in preserving natural capital.

By natural capital I'm really referring to one of four types of capital that has been described across the country: natural capital in relation to economic capital, in relation to human capital, and in contradistinction to manufactured capital. Natural capital is really those resources such as minerals, timber, oil, and gas which provide the raw materials used in the production of manufactured goods.

Natural capital also includes the land and water resources that provide our quality of life and support the economic activity that we enjoy. It refers to living ecosystems that cleanse our air and water, reinvigorate our soil, and contribute to a predictable, stable climate. Wetlands, for example, are among the most fertile and productive ecosystems among the natural capitals. They're an integral part of the hydrologic cycle and contribute to storing and recharging and discharging of groundwater.

Natural capital is the subject of deterioration, and this motion is designed to try to balance the needs of the economy with the need to protect natural capital. What is absolutely crucial in this argument is to realize that environmental prosperity is a prerequisite, an essential precondition for economic prosperity. Without managing our natural capital in a way that ensures long-term sustainability, we not only threaten the viability of our land and water, our air and health; we also threaten our long-term economic well-being. So to ensure this goal, it's necessary to integrate our economic growth with the stewardship of our natural capital.

We're recommending, then, that government and industry look beyond short-term interests to consider the impact on Alberta and industry beyond the immediate future, to look 20, 50, 100 years in advance and examine ways of increasing efficiency, increasing our investment in renewables, reducing our dependency on fossil fuels, and increasing the creative potential in our natural capital.

Currently, Alberta has benefited economically tremendously from the fossil fuel industry. These are nonrenewable. They draw from finite resources and are dwindling, becoming too expensive and too environmentally and health costly. In contrast, renewables such as wind, solar, biomass, geothermal, and others are constantly replenished and will never be used up. Expanding our reliance on these clean technologies will allow future generations to have reliable and affordable energy supplies. By promoting their development, we decrease pollution, combat climate change, increase our health, and create jobs, Mr. Speaker. It's imperative, then, to move towards this.

The Alberta strategy we would recommend would focus on these four areas: first, energy efficiency; secondly, deregulated power markets that do not provide sufficient incentives for substantial investment in energy efficiency; third, a strong energy-efficiency strategy that can transform the market to one with an increased percentage of energy-efficient strategies; and fourth, recognition that not having an energy-efficiency strategy impedes our economic competitiveness.

The policy challenge, then, is that, ideally, government policy is based on innovation and will create pilot projects, use economic incentives and information campaigns to spread the adoption of policy to the population. The policy challenge will also look at the

order for the demonstration projects to become economy-wide and require funding for those incentives that encourage innovation to become mainstream. Thirdly, this is necessary to promote the long-term strategy for technological innovation and climate change control.

Some of the suggestions that we're going to make have been used across the country. B.C., for example, implemented a 10 per cent research and experimental tax credit in 1999. The government could commit to consulting with all stakeholders, first of all, to develop what would work and what wouldn't work in the Alberta context. A venture capital fund could generate an industry in Alberta directly bound to the development of new technologies for cleaner energy.

In summary, then, Mr. Speaker, the policy we're trying to promote through this motion would set to guide the development of cleaner energy and renewable energy in Alberta. The policy would direct both research and commercialization for cleaner energy and renewable energy. It would encourage new investment in Alberta and result in new manufacturing facilities with new technology and more jobs with economic growth.

Leadership is needed in order to protect our environment from the demands placed on natural capital from resource extraction. During regional workshops conducted across this country through Western Economic Diversification, stakeholders called for refundable tax credits and incentives for capital investment in eco-efficient technologies to overcome known structural weaknesses in environmental technologies industries and to spur the development and survival of new firms.

This I leave for discussion and look forward to some debate. Thank you, Mr. Speaker.

The Deputy Speaker: The hon. Member for Lacombe-Ponoka.

8:10

Mr. Prins: Thank you, Mr. Speaker. I'm pleased to be able to rise and speak to Motion 504, which urges the government "to implement a royalty reduction program to provide incentives for industry to develop new technologies for cleaner energy." I was actually a little surprised when I first saw this motion because for as long as I can remember, the Official Opposition has continually been insisting that Alberta's oil and gas royalty regime is much too low. I guess they finally realize that Alberta's royalty regime is actually pretty good. We've been telling them that for a long time and been showing them the billions of dollars of investment and hundreds of thousands of jobs that are supported directly and indirectly through the energy sector.

Our royalty regimes have been a primary driver for the successful development and massive growth of the energy sector in this province. Our policies have encouraged growth. We have a commitment by our Minister of Energy that he will be continually monitoring and evaluating our royalty tax and bonus system structure to ensure that it remains competitive and to ensure that Albertans receive a fair share of the resource revenue.

Growth, jobs, and revenue are only one side of the energy development equation, Mr. Speaker. Encouraging the development and implementation of more efficient extraction and environmentally friendly technologies provides a long-term economic benefit not only to Albertans but to the environment as a whole.

More efficient extraction techniques result in more usable oil and natural gas being pumped from our wells, resulting in more oil and natural gas having royalty taxes being applied for an extended time. We end up leaving a much smaller percentage of oil and natural gas in the ground, maximizing the return on our resources to Albertans.

The Alberta government has already put in place a royalty credit program for companies that demonstrate the use of carbon dioxide in the development of Alberta's oil and gas resources. By injecting carbon dioxide into wells, higher yields of oil and gas can be obtained from the wells in addition to reducing Alberta's carbon dioxide emissions through storage of carbon dioxide gases in oil and gas reservoirs. The use of this technology in Alberta's energy sector can be attributed in part to the carbon dioxide royalty credit program we currently have in place. I thank the Department of Energy for having such a forward-thinking program in place.

When looking into this issue, we also come across the innovative energy technologies program, which has made available about $200 million in royalty adjustments to energy companies that implement innovative technologies. I would like to again thank the Department of Energy for having such a forward-thinking program already in place. This government takes an active role in ensuring that our energy sector is utilizing the most leading-edge technologies when extracting our resources.

Alberta also provides a great deal of funding through partnerships in the Alberta Research Council to initiate, develop, and commercialize a large variety of technologies that maximize the extraction efficiency of our resources, reduce water consumption, and cut down on various emissions. The Alberta Research Council in partnership with a variety of partners has been at the forefront of carbon dioxide research, enhanced oil and gas recovery, and environment-protecting technologies.

Mr. Speaker, the Alberta government and the Department of Energy already have in place excellent programs and initiatives that help push forward new and innovative energy-sector technologies. I'm quite certain that the Minister of Energy will be very open to hearing the ideas that the Member for Calgary-Mountain View and the Liberal caucus have on building upon our very successful programs. I just don't feel that it's necessary to pass this motion to urge the government to implement a royalty reduction program that will "provide incentives for industry to develop new technologies for cleaner energy" when we already have programs in place to do this very thing.

I would like to thank the Member for Calgary-Mountain View for bringing this motion forward because it has helped to educate all members of this House about the wonderful programs the government already has in place and has implemented regarding technology innovation in the energy sector.

Thank you very much, Mr. Speaker.

The Deputy Speaker: The hon. Member for Edmonton-Calder.

Mr. Eggen: Thank you, Mr. Speaker. Motion 504 as it stands urges the government to reduce royalties in order to provide incentives for industry to develop clean energy technologies. Now, I heard in the opening comments from the hon. Member for Calgary-Mountain View that, in fact, there was something like an error that was coming along with this resolution. I do want to give the benefit of the doubt to the hon. member since I have heard him speaking out against royalty reductions on a number of different occasions. You know, in fact, the royalty reduction program that we do have in place here, I believe, in this province now fails to serve to create meaningful incentives for companies to reduce their carbon output, especially for large final emitters. So, you know, with that in mind, I'm sure that the hon. member meant something quite different, and in fact I think he's intending to amend it.

However, I still would like to speak with some criticism over the concept of providing tax relief for large oil companies at this moment in our history, Mr. Speaker. There's a definite need to develop clean energy technologies in this province, and there's a

definite lack of government leadership in this area. But far from getting us closer to the goal, the idea of tax incentives or royalty reductions really does quite the opposite. I would believe that, and my caucus does too.

I would like to remind members that the prices for oil and natural gas at this juncture are at all-time highs. Crude oil has recently been trading above $55 a barrel U.S., and some analysts are predicting that prices could go as high as $105 U.S. per barrel in the very near future. While there has been some increase in the amount of Crown royalties as a result of record high oil and natural gas prices, I would remind members that for every one additional dollar in royalties, three to four additional dollars flow directly into energy industry coffers. If anything, this situation, Mr. Speaker, would call for something that would resemble a royalty windfall tax just to balance out the massive, quite literally, movement of capital across the planet from various consumer industries and individuals to oil companies at this point in time.

Corporate profits for oil and gas producing companies are at an all-time high, and good for them. For example, Calgary-based EnCana had made a staggering $2.6 billion profit in its most recent quarter on top of an annual profit of $3.5 billion for its 2004 year. Do companies like EnCana need more royalty or tax breaks? I really don't think so, Mr. Speaker, and I'm sure that most consumers here in this province and across the country would agree with that point.

I would also like to point out to members that the province's Auditor General, our own Auditor General, has been critical of existing royalty giveaway programs, and in the 2003-2004 fiscal year the province gave away over half a billion dollars – and that's with a "b," not an "m," Mr. Speaker – in a witch's brew of royalty reduction and giveaway programs. In light of a rather, let's say, liberal way of being rewarded here in this province for, you know, extracting oil, I think that if anything, we could stand to collect more of that money and not less of it. The Auditor General has criticized the Conservative government for not only failing to provide an account for these royalty giveaways but also for failing to prove that they even serve a useful purpose.

I think that we could go beyond the royalty regime and also look at a tax regime, as I said before; you know, something like an increased tax for sort of this bonanza season that the oil and gas companies are having at this juncture. I think the oil companies would be quite happy with that, and we would collect more of the money that otherwise belongs to the people of Alberta, Mr. Speaker. Let's just remember that the royalties that we collect are not a tax on the oil and gas companies who are extracting that resource from the ground, but it's just a small portion of the money that belongs to all of us. Every single Albertan has some ownership in that. Isn't it time that every single Albertan received their fair share of what bonanza of money is being produced in this province here in 2005?

I'm definitely speaking in opposition to the royalty and the tax regimes to fall. Moreover, I think that, you know, the idea of a royalty decrease is built on an essential fallacy. This idea of the invisible hand that somehow will allow people, if you give them less royalty rates, to naturally fold the money back into something benevolent I think is a little bit naive, Mr. Speaker. How does giving even more royalty revenue away to energy producing companies at a time of record energy prices help those forward-looking companies not in the fossil fuel extraction business do what they want to invest in clean energy technology? In fact, it doesn't. In fact, it gets in the way. It's quite a backwards thing.

8:20

We have several large corporations in this province who have recognized the need to reduce carbon emissions, and, you know, they have done it without any special, extra things. In fact, they can just read the writing on the wall, Mr. Speaker, and that's sufficient for them to realize that our climate is in the midst of change and that it could be catastrophic change without some absolutely categorical change in our own ways of doing things. Number two, those large corporations such as Suncor and BP realize as well that there's plenty of money to be made by switching over to Kyoto-friendly targets and practices.

I would encourage all members to read two excellent reports by two Alberta-based research institutes: the Parkland Institute, based here in Edmonton, and the Pembina Institute, based in Drayton Valley. Both reports reach the same conclusion. Compared to other energy producing jurisdictions, such as Norway and Alaska, the province of Alberta is capturing a much lower percentage of the economic rents in the form of oil and gas royalties than these other jurisdictions, particularly in years when energy prices are high.

If Motion 504 is in fact dealing with royalty rates, then certainly we don't want to do that, and I would suggest that some tax benefits would be meeting the same defeat if we look at them in the most judicious and accurate way, Mr. Speaker.

Thank you.

The Deputy Speaker: The hon. Member for Edmonton-Rutherford.

Mr. R. Miller: Thank you very much, Mr. Speaker. I rise this evening to move an amendment, as was suggested, to Motion 504, and I've supplied the appropriate copies to the table, so I assume that the members will be receiving them shortly.

Mr. Speaker, my amendment would strike out in the motion as it sits now the words "to implement a royalty reduction program." If it were to be received favourably by this Assembly, the motion would then read: "Be it resolved that the Legislative Assembly urge the government to provide incentives for industry to develop new technologies for cleaner energy." Now, I'm hopeful that this amendment will serve to clarify for the Member for Lacombe-Ponoka and also the Member for Edmonton-Calder, who questioned whether or not the motion as it now stands might be somewhat at odds with Liberal opposition policy.

Mr. Speaker, as the mover of the bill, my colleague from Calgary-Mountain View, indicated, at the time that this particular position as it sits now was written, we were, quite frankly, to tell the truth, all raw rookies, and we had been informed that we had to write a number of motions for returns and a number of written questions in a rather short period of time, right around the Christmas break. So this motion was written, and quite frankly we got caught up in all of the other things we had to do to prepare ourselves for functioning in this Legislative Assembly as new members.

When it came to light recently that this motion in its current form was going to be coming forward, there was a recognition by the Member for Calgary-Mountain View, who had originally drafted it, that it didn't clearly indicate his intent in that although royalty reductions might not necessarily be at odds with Liberal opposition policy if, in fact, those reductions were particular to providing incentives for the industry to develop new technologies for cleaner energy, in fact that one idea may be only a small nugget in terms of the overall picture as to what the Liberal opposition would like to see and believes should be done in the way of incentives for industry. To tie it specifically just to the idea of further royalty reductions was not really capturing the scope that my colleague from Calgary-Mountain View had intended when it was first contemplated to bring this motion forward.

So with that background, Mr. Speaker, I'd like to expand a little bit upon some of the other ideas. I think my colleague from

Edmonton-Calder suggested that it may have been drafted in error, and I hope that I've clarified that it was not, in fact, an error at all but perhaps just part of a rather large learning curve that we were all undergoing and, as I indicated, did not necessarily capture the full intent of the mover when it was first drafted.

Mr. Speaker, there are several ideas, in fact, that the Liberal opposition would like to see promoted in and around the area of energy and environmental protection that would go a lot further than simply royalty reductions. We have talked in the past an awful lot about how this entire issue is going to require an aggressive approach in terms of developing renewable resource energies such as wind, biomass, and solar power, all of which there's great potential for in this province. If this motion were to go ahead specific to the way it's currently worded, without the amendment, then we might in fact not be looking at some of those other ideas that the Alberta opposition has promoted in the past and would like this Legislature to have a serious look at if the motion in its amended form were to be accepted.

Mr. Speaker, the Alberta Liberal Party, as I suggested, supports aggressive energy research that would serve to protect health and the environment. In fact, providing incentives to the industry to develop cleaner uses of nonrenewable resources as well as encouraging the new technologies during the extraction phase, that were referred to in the original motion, are all part of what we believe the province should be looking at.

The other thing I would like to say before I take my seat is that my colleague from Edmonton-Calder also mentioned the fact that he believes Albertans should be benefiting from this tremendous wealth that we're experiencing right now, especially with high oil prices, which are expected by a number of industry analysts to continue to climb for the next 18 months to two years, likewise with natural gas.

I would just like to point out – and again this ties into the fact that the amendment that I'm moving broadens the scope of the motion – that the Official Opposition has outlined a very innovative and exciting plan to deal with future surpluses, which of course are contributed to greatly by the royalty revenue that is collected right now. In that plan, in fact, 35 per cent of any surplus would go into the heritage fund to cause it to grow; 35 per cent into the postsecondary fund that we've talked about, similar to Bill 1 right now with its $3 billion cap except that we wouldn't have the cap, of course; 25 per cent into the capital account to deal with what we believe to be an $8 billion infrastructure debt; and as well 5 per cent into an endowment for the humanities, social sciences, and the arts.

Certainly, to address the concerns from the Member for Edmonton-Calder, I think the Liberal opposition has a very good policy that would deal with those surpluses and would ensure that Albertans benefit not only from the revenues that are generated currently by royalties from oil and natural gas but, in fact, from the overall strong economy that Alberta is currently experiencing.

I hope as well that I've addressed the question raised by the Member for Lacombe-Ponoka in terms of the royalty reduction aspect of the motion as it sits right now in clarifying that although, as I suggested, a royalty reduction in and of itself, were it to be tied to the development of cleaner energy, wouldn't necessarily be a bad thing, it does not capture the scope of the intent that was planned by the mover of the motion.

So, Mr. Speaker, I will take my seat and look forward to debate on the amendment as it applies to the greater vision of the mover and the Liberal Official Opposition. Thank you.

8:30

The Deputy Speaker: The hon. Member for Vermilion-Lloydminster on the amendment.

Mr. Snelgrove: Yes, on the amendment. I want to kind of give a little bit of a backhanded slap here. The hon. member has certainly done a good job in identifying the weakness in his original motion, but his amendment would have carried a little bit of credibility if it had said something to the effect: we would like to commend the Alberta government for the incentives it has already provided to the industry because, in fact, they have provided an enormous amount. In all fairness, many of the hon. members haven't been here long enough to really understand, and many on probably both sides of the House and, certainly, the general public in Alberta don't know the commitment and the extent of the investment into new clean technologies. That's somewhat why there is extreme frustration from the government as we deal with Kyoto. We believe and we have done so much ahead of the federal government in just doing exactly what the intent of your amended motion would be.

Particularly, I would like to talk a little bit about the innovative energies technology strategy. This is a major component of Alberta's energy innovation strategy. Its purpose was to respond to future energy needs by investing in results that focused on research and technology and innovation and helped create the highest commercial value with the highest standards of environmental performance. That represented a $200 million commitment, and over the lifetime of its commitment the royalty returns are in the neighbourhood of $660 million.

I don't want to say that I could have ever supported their first motion, and I quite honestly can't support the amended motion because we're light-years ahead. So with that, Mr. Speaker, I would urge us to very carefully consider what we're saying and maybe take even longer next time when we're drafting motions. Thank you.

The Deputy Speaker: The hon. Member for Edmonton-Strathcona. I'd like to remind everyone that we're not speaking on the motion or the motion as amended. We're speaking on the amendment.

Dr. Pannu: Thank you, Mr. Speaker. I'm pleased to speak to the amendment to Motion 504, which stands on the Order Paper under the name of the hon. Member for Calgary-Mountain View. The amendment and the motion that it proposes to amend should both be considered in the context of the challenge that we face as part of the global community that's coming to us from rapid global warming. I hope all members of this House acknowledge the validity of the science of global warming and see that as an important challenge that we need to address most seriously.

The motion that's being amended and the amendment itself speak to the concerns that arise out of the scientific knowledge that lies at the base of the debate over climate change. I think we have come to a stage where, perhaps with a few doubters and dissenters, there is consensus that that science speaks the truth that we must listen to and then we'll pay attention to.

Now, it's another matter whether or not the government's own policies and positions on climate change and greenhouse gas emission reduction strategies are appropriate ones. In my view, the emissions intensity model that this government has adopted continues to allow the increase in the absolute release of tonnage of greenhouse gases into the atmosphere, and I respectfully submit to you, Mr. Speaker, and to the House that that's not the way to seriously address the truth of science that lies at the base of climate change.

Kyoto is an incomplete, certainly imperfect first response, only a first response, a first step to our global attempt because it's a global problem. We can't solve it by taking action on it just in one place or one corner, but we can certainly develop nodes of leadership. Kyoto is an attempt to provide that opportunity for giving leadership

to societies and communities that are at the cutting edge of industrialization, scientific development, and prosperity. When you are prosperous, when you are leading the pack in terms of economic growth, economic development, you also have some social responsibilities, and one of those responsibilities is expressed in the form of Kyoto obligations that are accepted by a very large number of countries around the world, particularly countries like Britain, I want to draw your attention to, and Canada who say: yes, we have a social responsibility, and we should accept it and become part of the solution rather than continue to be part of the problem.

Having said that, Mr. Speaker, the motion itself – the amendment to the motion, of course, tries to amend the motion, so I can't speak about the amendment without speaking about the motion. "Royalty reduction," which is now being proposed to be taken out of the initial motion, draws attention to the fact that perhaps the original motion was narrow in its scope.

We not only need to address these legislative measures and motions and resolutions to the energy industry, industry in general but to research organizations, universities, community groups, renewable energy producers whether they produce renewable energy through wind power or solar power or biomass. These are other industrial activities and scientific activities that fall outside the energy, petroleum, natural gas production industries.

The motion itself concedes rather narrowly to somehow provide a carrot-and-stick model, that the hon. Member for Calgary-Mountain View sort of used, as if we are dealing with only one person, one actor, and that actor being petroleum companies and gas companies. We're not. We should be addressing by way of this motion the larger question of how we can encourage the development of technologies, science that will lead to the development of those technologies wherever we can find parties and actors and institutions that are willing to lend their support in terms of their ongoing research activity and technological innovation to the development of technologies that will help us reduce our dependence in the long-run on fossil fuel as the primary source of energy and to move to others where we can begin increasingly to use renewable sources of energy.

The motion even when amended by dropping "royalty reduction program," in my view, still remains rather narrow in what it attempts to address. I think we need to have a debate in this House which looks at the picture as a whole and sees many players on the scene who are willing and able to make contributions to our desired goal, which is to slow down climate change, climate warming, and at the same time increase our reliance on energy sources that will not only help us slow down the climate change and the space and rate at which it's changing but also help us keep our environment clean, keep our communities clean, and keep our health in better shape than the fossil fuel consumption helps us to do. We need to have a debate which is broader, which has a larger scope and doesn't just focus on the oil and gas industry as this motion, even when amended, would seem to suggest.

8:40

With that said, Mr. Speaker, I think the amendment does move towards at least limiting the negative side of the motion, and for that I'm pleased; I'm happy. But I think that in the days when, in fact, oil and gas industries are making absolutely unheard of, unparalleled profits and generating huge revenues for themselves, it isn't the time to talk about royalty reduction as a carrot that they need.

I visited with the management of Suncor a year and a half ago in Fort McMurray, and they said: "We don't need any incentives. We have the technology. We think we can save money by using our own technology to reduce the greenhouse gas emissions plus sell that technology to other producers of tar sands based fuels." All they needed was for this government to say, "Go ahead," but they were worried that this kind of positive response would be taken in a negative way by the powers that be in this province. Similarly, BP has not only reduced greenhouse gas emissions but, as a result of the technology that was developed, has increased its profitability enormously.

So companies in this day and age working in the area of fossil fuels making huge profits don't need any more royalty reductions as incentives or carrots. They are willing to do the thing so long as they get a strong expression of will from Houses like this which say: "This is what we expect you to do. Please accept your social responsibility as you are enjoying such huge profitability, and come with us. Let's all work together to work on reducing the rate at which climate is changing and also making our air and water cleaner than it is now."

Thank you, Mr. Speaker.

The Deputy Speaker: The hon. Member for Edmonton-Manning on the amendment.

Mr. Backs: Thank you, Mr. Speaker. I rise in support of the amendment proposed by the Member for Edmonton-Rutherford on the motion from the Member for Calgary-Mountain View. I think there's some wisdom that's been spoken by the previous two speakers, from Vermilion-Lloydminster and Edmonton-Strathcona. There is a need to have a broadening of the initial bill, and I think that this amendment speaks to that. There is a need to recognize that, you know, the government's royalty regime and some things in the past have done a lot of good. I think it might have taken a bit too long to get started in the tar sands, and it could've come a number of years earlier, but in the final analysis it has spurred on production and helped make the oil sands the booming sort of great enterprise for Alberta that it is.

The expansion of this bill through the amendment is very important, I believe, because of the need to look at the options that would allow the government to get into things like what British Columbia implemented with its scientific research and environmental tax credit in 1999. That program provided tax credits to qualified corporations that carry on scientific research and experimental development in British Columbia.

Now, we have some similar types of programs, but if we were to direct it at energy and direct it at some of the problems that we have associated with energy production in terms of our climate, in terms of our pollution, in terms of our many things that are so attached to the economic driver of our province, the carrot-and-stick approach can have some good effects.

I've talked to a lot of tradesmen, a lot of people in the construction industry and a lot of contractors over time, and, you know, people have said: "Oh, environmentalists – environmentalists. Yeah, yeah, yeah." But, in reality, much of the investment, much of the work that's done, much of the actual cost, and the wages paid have been done for the purposes of environmental projects in the oil sands, in the pipeline areas. The advances in the last 20 years have been remarkable. You know, we have world-class scrubbers in the Genesee coal-fired generation plant. We have similar world-class sulphur scrubbers and such in Suncor and similar types of technology being developed for Syncrude.

As the Member for Edmonton-Strathcona says, there's money to made in these things. But sometimes these technologies come forward not only from the big corporations, but they come forward from private interests that are much smaller. To provide something like tax credits or things like that which go beyond royalties, which

go beyond the initial, more constrained idea of the bill, I think, provides a much more utilizable tool for the government in dealing with this. We've got some areas that these types of research should be coming into and coming from some maybe smaller companies in the field, you know. CO_2 sequestration is an important area to look at that could be developed with Alberta leading the field.

We should not take a head-in-the-sand approach. We should not, I think, leave it a way, not have it as a tool for the government to encourage corporations through the taxation system in general. There's a real incentive, I think, a real interest on the part of many corporations. The people that work there are people just like everybody here and everybody that are neighbours in Alberta, and many of them are looking to not only have profits but also to have a real clean environment, clear air, good water for their children.

I speak in favour of this amendment, Mr. Speaker, and I ask all members to support it.

The Deputy Speaker: The hon. Member for Grande Prairie-Smoky.

Mr. Knight: Well, thank you, Mr. Speaker. There have been a number of comments made tonight both with respect to this amendment and Motion 504. As amended, the motion would read, I believe: "Be it resolved that the Legislative Assembly urge the government to provide incentives for industry to develop new technologies for cleaner energy." Some of the speakers have said that this thing is too narrowly focused, doesn't include renewables, doesn't include possibilities that exist beyond the hydrocarbon world. I don't see anything in there at all that says anything about hydrocarbons. It says "cleaner energy." I would suggest that energy can come from a vast number of sources.

One of the speakers thought that the Alberta government, in respect to this thing once it would be amended, should be more aggressive. We should have a more aggressive approach to renewables. Mr. Speaker, I'd like to point out that right now the province of Alberta is a North American leader in wind power generation. We're a leader in generation and construction of generation in cogen. We're a leader in biomass and other renewables that are tied into the grid. In about four years we produced 3,000 megawatts of additional power, a good percentage of which is renewables. On top of that, the Alberta government leads the country in the public purchase of green power.

Now, if we want to talk a bit about incentives, it's been mentioned a number of times, but I just have to go back to this thing: a five-year program, $200 million – and it's a royalty offset program – for innovative technology to enhance recovery and reduce emissions. Some suggestions were that this thing is targeted at CO_2. Again, much, much broader than CO_2. We're talking about any innovative technology.

Mr. Speaker, besides those two small projects that we actually have on our books at the moment, Alberta has an ingenuity fund that has a value today of some $560 million, and there has been a motion recently in this House to increase that to a billion. These types of initiatives by this government would seem to me, Mr. Speaker, to be almost at the edge of being aggressive.

8:50

The Alberta government has been suggesting for a number of years that the Kyoto protocol is flawed, and it will result in Alberta companies and Canadian companies purchasing hot air credits from areas of the globe such as Russia, a form of wealth transfer, Mr. Speaker, or global equalization program that has absolutely no value in the reduction of greenhouse gas in the atmosphere. That's why the Alberta government under the leadership of Alberta Environment created the made-in-Alberta solution to climate change, and the solution already includes royalty adjustments that encourage industry. The more efficient we can get at extracting oil and natural gas, the less waste we have, the less energy there needs to be expended to extract the oil and gas, and the less water we'll use during these processes.

So back to the $200 million of offset royalties. It seems like a lot of money, but with the efficiencies gained, as has been pointed out, more oil and gas will be extracted from existing pools, and this, again, what we would like today, I guess, to call conventionals, certainly increases royalty eligible production and hence the return on those invested dollars to the citizens of the province of Alberta.

Another part of the made-in-Alberta plan for climate change was the creation of AERI out of the old AOSTRA. AERI's mission statement simply says that what we want is "an abundant supply of environmentally responsible energy, creating economic prosperity and social well-being for Canadians." For Canadians. They have already seen success in Alberta's oil sands. In September 2003 industry and government collaborated on a new heavy oil extraction testing facility near Fort McMurray known as DoVap. It's a heavy oil research project using a vapex process and decreases the amount of energy required for extraction. It cuts operating costs and recovers bitumen that would generally not be recoverable.

All of these things are supported, Mr. Speaker, by the Alberta government. AERI provided $7.5 million towards that project. In my opinion, that's aggressive, money well spent. We've seen amazing results from the test facility both economically and environmentally.

Mr. Speaker, we're also working and working hard in AERI and in other research facilities and research programs across the province, across the country, and certainly across North America, and, I might add, in certain circumstances globally to do exactly what it is that the member has asked this Legislative Assembly to urge the government to do.

Personally, I don't see any real requirement for us to support a motion that is just a motion. It doesn't create anything new, doesn't establish anything innovative; it only reinforces something that this government has taken very, very seriously for a number of years. I will for my part not be voting either in favour of the amendment or the motion.

Thank you.

[Motion on amendment lost]

The Deputy Speaker: We'll recognize the hon. Member for Highwood.

Mr. Groeneveld: Thank you, Mr. Speaker. The Member for Calgary-Mountain View has placed an interesting motion before the House. I must admit that I was surprised by the proposed idea when I read it on the Order Paper. Instead of raising taxes, hampering the provincial budget process, or throwing more money at the health care issue, there appeared to be creativity contained in this proposal. At first glance Motion 504 had the appearance of an idea that I could support. It would help to stimulate the private-sector research in our province and advance clean energy research. This could possibly result in the creation of jobs and spawn a greater development of Alberta's knowledge-based industry. However, upon closer inspection the fatal flaw of this idea becomes readily apparent. The scope is too narrow. Alberta has traditional strengths in the oil and gas industry, but in order to better prepare this province for the coming years, it is necessary to expand our vision.

We have some of the world's leading minds conducting research

into a variety of fields in our province, and it would be foolhardy to ignore these industries. Mr. Speaker, when you are trying to build a house, you use all the tools at your disposal; not just a hammer, not just a level but everything in your tool belt. To do otherwise, to limit yourself by not making use of all the resources that are available just does not make sense. It would be remiss of this Legislature to urge the government to give financial support for research exclusively to one industry, especially considering there are other industries involved in clean energy research. This motion is limited solely to Alberta's oil and gas sectors when there are many other sectors that could benefit from a tax incentive for increased development of clean energy.

A great example of this is the integrated manure utilization system, or IMUS, that has been developed right here in Alberta. IMUS is a product of collaboration between the Alberta Research Council and private industry. Essentially, IMUS takes the manure from a 36,000-head feedlot and converts the energy contained in it into electricity and other value-added products. This type of technology is killing two birds with one stone. First of all, this system addresses a problem facing feedlots in our province: animal waste. When you have an operation dealing with 20,000 or 30,000 head of cattle, waste by-products quickly become an issue, a very large issue. Several problems associated with this waste include shipping and disposal costs, preventing contamination of ground and surface water, release of greenhouse gasses, and, of course, the odour.

The integrated manure utilization system currently being piloted by Highland Energy deals with these matters in an environmentally friendly way. Not only will the animal waste be dealt with, but it will be transformed into electricity, biofertilizer, and irrigation-quality water. This is accomplished through a sealed processing plant that utilizes anaerobic digesters to do the work. In sealed tanks the methane and carbon dioxide are drawn off and fed into a cogeneration plant. This provides electricity for the feedlot itself, and surplus power can be fed back into the Alberta power grid. The slurry that is left in the tank is separated, with the dry solids being sold as a rich biofertilizer. Nutrients can also be recovered from the liquids that are separated, with water that can be used for irrigation being the end product.

Mr. Speaker, while I realize that this is a bit of an earthy topic, the potential of this project is massive. The pilot project being carried out is designed for a 7,500-head feedlot. It has been estimated that this will produce one megawatt of electricity. To put this in perspective, three megawatts is enough to power a town of 5,000 people. The full size commercial application of this project, based on a 20,000-head feedlot, is predicted to produce 14,480 megawatts of electricity annually as well as over 13,000 tonnes of biofertilizer.

9:00

Mr. Speaker, this technology will relieve the provincial dependency on a fossil fuel fired generation plant, thereby reducing greenhouse gas emissions from this type of energy generation. At the same time, the system addresses environmental issues surrounding our cattle industry, such as reducing the amount of emissions that are created by spreading raw manure as fertilizer, protection of our water resources, recycling waste water, and, of course, odour reduction. This is but one of the many energy innovations that are being developed outside of our oil and gas industry. It is necessary to promote research and development across the private sector, not just in one area.

While I appreciate the intent of Motion 504, I feel that the Member for Calgary-Mountain View has brought forward a proposal that is too narrow in its scope to provide a real benefit to Albertans. Additionally, as other members have pointed out, the government already has programs in place to bolster research and development in the oil and gas sector. The action suggested by this motion would be redundant in the extreme.

Because of these reasons I find myself unable to support Motion 504, and I urge all my colleagues to do the same. Thank you.

The Deputy Speaker: The hon. Member for Calgary-Mountain View to close.

Dr. Swann: Thank you, Mr. Speaker. I thank all the hon. members for their feedback and excellent discussion. I in no way intended through this motion to limit the discussion to the fossil fuel industry, recognizing that there are a host of industries that need and deserve incentives, and I hoped that the amendment would cover that. I'm prepared to now open the floor to the vote and close debate.

Thank you, Mr. Speaker.

[Motion Other than Government Motion 504 lost]

head: Government Bills and Orders
Second Reading

Bill 16
Business Corporations Amendment Act, 2005

[Adjourned debate March 23: Mr. MacDonald]

The Deputy Speaker: The hon. Member for Edmonton-McClung.

Mr. Elsalhy: Thank you, Mr. Speaker. I rise today to speak on Bill 16, Business Corporations Amendment Act, 2005. I would like to start by thanking the hon. Minister of Government Services and the hon. Member for Calgary-Nose Hill, who sponsored this bill, for taking the time to meet with me and with my researcher.

In the general scheme of things this bill appears to seek to harmonize Alberta's business corporations legislation with the national law, the Canada Business Corporations Act. Also, it permits the incorporation of unlimited liability corporations in this province. Plus, it offers some minor modifications and fine-tuning.

I agree with this bill in principle as it appears to be geared toward removing unnecessary restrictions on Alberta corporations. I definitely support liberating our private sector and business community, allowing them more freedom, more room to breathe, allowing them to prosper and to grow. I would like to see all of them unleash their power, and I would like to help them all realize their full potential. Of course, the main goal here would be that they continue to reinvest in this province and in Canada and to employ Albertans and Canadians.

I did some primary research around this whole business of unlimited liability corporations, and apparently Nova Scotia is so far the only other Canadian jurisdiction which allows them. The Alberta government wants to be at par with Nova Scotia to try to attract U.S. companies and capitalize on what it views as an unutilized revenue source. Here I would have to agree that making Alberta more attractive to business and providing opportunities or opening doors for foreign capital are things we all desire and support.

However, I'm concerned with regard to some points. I have some issues with this bill; namely, that we would facilitate the flow of investment capital into Alberta. But with the preferential tax treatment, will such unlimited liability corporations escape taxes on their investments in this province? On the one hand, we're bringing them in and, hopefully, allowing them to invest in our own market,

but then by offering them preferential tax treatment, are we allowing them to not pay their fair share?

Also, shareholders of an unlimited liability corporation are ultimately and fully responsible for any liability, even after the dissolution of the company. So what are the safeguards here? Are we letting the directors off easy? We've all heard of cases or numerous situations where financially sound companies, strong healthy corporations, were hurt or went under as a result of bad or irresponsible management practices. Are we letting those company directors off the hook? I would be more worried, of course, if they're from the U.S. If such a ULC, or unlimited liability company, folds, they would board the first plane out of here, and they would tell us: "See you later. Sayonara." The shareholders, some or most of whom might be Canadians, are left with the debt and the liability.

Also, what guarantees will the public have that after the initial phases, as I indicated, after the euphoria and the ecstasy subside, these ULCs will continue to invest here and employ Albertans and Canadians? Canadian companies at least, or most of them, one would hope, have some social conscience and show some respect and recognition for their role in society and their duties to sustainability and development. The question then: will these extraprovincial corporations share that vision? Will they honour the same obligations, or will they, as some would suspect, only focus on profitability and their own growth at all costs and without regard to our own workers, families, economy, or the environment? We have to stay alert and careful so as to avoid and prevent such scenarios from going sour. Allow them to come and operate here, but monitor them very closely.

Also, I would urge this government to stay alert to and mindful of the potential for those companies to push or lobby for the importation of foreign workers because they cost less and don't ask for much. There has been a lot of debate in this House about the oil sands and the proposed importation of foreign labour from outside Canada, and I think we have made it very clear as the Official Opposition that we are naturally opposed to any such move. Any and all available jobs in Alberta in any industry or trade must be filled by Albertans, Canadians, aboriginals, and landed immigrants first before any consideration is given to outside labour.

There is something positive to mention about this bill in that it is proposing some protection for a person from being liable for acting in good faith in reporting information to the auditor. To me, when I read this clause or this phrase, it really sounds like whistle-blower protection. Definitely, this is great and very commendable. Now, perhaps the natural thing to follow would be for this government to implement similar legislation to allow similar whistle-blower protection mechanisms for its own employees and for its own staff to ensure more transparency and accountability within government circles.

Furthermore, this amendment disqualifies a shareholder accountant from being an auditor of the corporation in which he or she owns shares. Again, this is a good move, and I commend the government on taking this direction. Similarly, it would make sense from a conflict of interest point of view to perhaps challenge this government to extend this provision to its own auditors. Can we opt for more transparency and truth in the government's audit procedures by only allowing neutral, unaffiliated, and impartial auditors to review the books and offer unbiased commentary and recommendations? If this day comes in our lifetime, this would be tremendous. Such a move will surely make Alberta a leader in Canada if not in the world and, in my opinion, will be a signature stamp on this Premier's legacy passport.

To conclude, we support the direction this bill is going but hope that the proper safeguards and assurances are in place to protect our capital, our resources, and our people. I would look forward to hearing more comments on this bill perhaps at this stage or maybe in Committee of the Whole.

I thank you, Mr. Speaker.

9:10

The Deputy Speaker: Standing Order 29(2)(a) is available, hon. members, if anyone wishes to participate.

Seeing none, the hon. Member for Edmonton-Strathcona.

Dr. Pannu: Thank you, Mr. Speaker. I'm pleased to rise and speak to Bill 16, the Business Corporations Amendment Act, 2005, in its second reading.

Mr. Speaker, at the outset I want to thank the Minister of Government Services for his courtesy to invite me and our researcher, a staffer, to sit with him and his assistant to go over the main features of this bill, which essentially are in the form of amendments to existing pieces of legislation. I also want to thank, of course, the sponsoring member, the hon. Member for Calgary-Nose Hill, for his work on this bill.

Mr. Speaker, I'm going to try and limit my comments – it's a fairly extensive set of amendments – to the ones that deal with creating in Alberta a situation parallel to what presently exists in Nova Scotia for the benefit of foreign corporations, primarily American corporations, to register in order to avoid American taxes. That is the issue that I am going to address: whether or not we should adopt the Nova Scotia legislation to serve largely the same purpose; that is, to encourage American investor corporations to come into the province and register here and then do business wherever they want to.

The point of the Nova Scotia legislation is that it doesn't necessarily require or compel American companies that register, incorporate in Nova Scotia to necessarily bring business to Nova Scotia other than to bring business, I suppose, to the government services department of the province of Nova Scotia. American businesses so incorporating in Nova Scotia feel free to go and do their business wherever they wish. The only attraction for them to go to Nova Scotia is to somehow avoid having to pay taxes, the American taxes.

Now, Mr. Speaker, the real issue, in my view, is the issue of creating tax havens in Canada for the benefit of corporations from outside, particularly U.S. corporations. The Nova Scotia model has a certain type of corporation which provides some benefits in terms of taxes to the corporation. This kind of a corporation has got an unlimited corporation entity – I'm trying to get the exact wording here – and the unlimited corporate liability means that it's part of this increasing number of parties which can be pursued in potential lawsuits as an ordinary corporation provides protection to its shareholders. So it really spreads the liability to all shareholders. In an unlimited liability corporation shareholders themselves can be pursued in case the corporation cannot meet its obligations.

So far Nova Scotia is the only province offering this unlimited liability corporation and, for obvious reasons, was flooded with requests from U.S. companies and individuals to incorporate these kinds of entities. The application fees were increased significantly in Nova Scotia, and it turned into quite a cash grab for the province. Since the people paying fees are primarily U.S. investors, no one really complains about this. It now seems that Bill 16 wants to bring that model of unlimited liability corporation right here to Alberta so that Alberta now would like to provide this corporate structure to U.S. investors and make it unnecessary for them to incorporate in Nova Scotia to attain the desired corporate structure.

Now, the argument could be made, I'm sure, in support of this bill that this will allow more American capital to come into Alberta,

thereby enhancing economic growth and economic activity in this province. Mr. Speaker, I think that's a pipe dream. As I said before, for American companies to come to Nova Scotia to incorporate there as unlimited liability corporations has not translated into those companies investing in Nova Scotia. There's no reason, therefore, to assume or believe that simply opening up this avenue for American companies to incorporate as unlimited liability corporations in Alberta will do anything different.

As I said, the actual location of the business does not change since a company could always incorporate in Nova Scotia but operate in Alberta and vice versa. It just keeps more of the corporate legal activity in Alberta. I think certainly some corporate lawyers would be happy that they will have some increased business because American companies may come here and seek legal services to get incorporated as unlimited liability corporations.

There's very little benefit, as I see it, in it for additional investments being attracted to Alberta by nonresidents by virtue of the passing of this legislation in this House. The Government Services department will probably make a few more bucks, but that's not, in my view, what the purpose of that department is. Its primary purpose is to ensure that there is appropriate legislative framework in place for corporations and businesses to do their work here within the bounds of the laws of this province and of this country.

The only people who will be happy, if this legislation were to pass and allow the incorporation of these unlimited liability corporations in Alberta, would be Alberta lawyers, who have up to this point seen much of this work go to Nova Scotia. The passing of this bill here simply will be another signal sent by this government to let their American friends know that Alberta is, quote, unquote, open for business. But business may in fact go elsewhere, with the exception of the legal business that may be attracted here if they pass this legislation.

Mr. Speaker, I have here a news release from CanWest news – and I will try to table it tomorrow – called Canadian Offshore Investment Jumps Eight-fold Since 1990. This says that

> Canadian direct investment in offshore financial centres, including "tax havens," has soared eight-fold since 1990 to a whopping $88 billion in 2003, according to a report by Statistics Canada.

The report, released Monday – this says March 15 – rekindled opposition demands, including demands from the federal Conservative opposition

> for a crackdown on Canadian firms' use of offshore financial centres to avoid paying taxes in Canada. It also triggered a suggestion that Canada cut its taxes to compete with legitimate low-tax regimes, such as Ireland.

In other words, a race to the bottom kind of argument emerges from this debate on the flowing of capital outside Canada to these tax havens and use of those tax havens to avoid taxes for Canada.

9:20

For example, there's a quotation here.

> "From 1990 to 2003, Canadian enterprises invested substantial and growing amounts in countries known as 'Offshore Financial Centres' (OFCs), many of them in the Caribbean," Statistics Canada said. "These centres include countries that are often referred to as 'tax havens', as well as those which have important financial sectors, such as Switzerland, but also Ireland," it said.
>
> The largest increases went into Barbados, Bermuda, the Cayman Islands, the Bahamas and Ireland, the five countries being among the 11 nations with the most Canadian assets.

I'm sure everyone recognizes this name in this House; we sometimes wish we had an Auditor General like that.

> Auditor General Sheila Fraser two years ago charged that multinational companies operating in Canada have avoided "hundreds of millions" of dollars in taxes over the past decade through the use of tax havens.
>
> A more recent university study charged that Canadian banks alone saved $10 billion in taxes over the past decade through the use of tax havens.

The point, Mr. Speaker, that I'm trying to make is that if as Canadians we are unhappy with the fact that tax havens offshore help Canadian investors avoid paying billions of dollars of taxes of corporations, then we have to as individual citizens and taxpayers pick up in terms of our own income tax – what we lose in terms of corporate taxes, we are asked to make up through income taxes and other indirect service fees and indirect taxes.

We don't want to become part of this tax haven world, where Canada competes with Cayman Islands or Barbados or some other Caribbean offshore financial centre, OFC. We don't want to become that. We want to create conditions in this province and in this country that will generate interest in healthy economic investments, healthy economic activity, and investments which respect the laws of the land and want to do business in order to both profit themselves but also contribute to the social good and to the broader economy, which all of us are part of and are participants in.

Therefore, Mr. Speaker, given that the main thrust of this bill and the part of the bill that I'm focusing on is an attempt to turn Alberta into something like Nova Scotia and then Nova Scotia and Alberta become more like tax havens as we now know exist offshore, which draw Canadian resources away, take our taxes away, I don't think we should compete with those and become like them. In fact, we should do everything that we can to attempt to limit the accessibility of tax havens and reduce the attractiveness of those tax havens so that everyone does honest business, pays taxes honestly, and enjoys the benefits of doing both in the places where these investors are and investments occur and businesses take place.

Thank you, Mr. Speaker.

The Deputy Speaker: Standing Order 29(2)(a) is available for anyone that wishes to have a question or comment.

Seeing none, anyone else wish to speak? The hon. Member for Edmonton-Manning.

Mr. Backs: Thank you, Mr. Speaker. I'd like to rise in support of this bill, moved by the Member for Calgary-Nose Hill, and join with the Member for Edmonton-McClung from the Official Opposition in supporting this bill.

I do have a number of concerns and questions I'd like to have answered, though, in Committee of the Whole. One would be, you know: what are the reasons to allow the directors of a corporation to add all or part of the value of shares used in dividend payments to the capital account of the corporation? Before it all had to be put into the capital account.

Another question would be the provision that allows for beneficiaries of registered shareholders that hold shares in trust to vote on corporate decisions. The question is: what about blind trust situations?

Also, the area that changes the number of Canadian directors required by the corporation and reduces it from one-half to one-quarter. The question: why the drop in the Canadian requirement, and shouldn't we have Canadians fully represented on the boards of Canadian companies?

Another question – and this echoes a comment put forward by the Member for Edmonton-McClung – is the provision that protects a person from being liable for acting in good faith in reporting information to the auditor. Well, a couple of questions: isn't this whistle-blower protection, and will the government implement the same provisions for its staff?

The general thrust of the bill, especially the areas that put it in parallel with the Canada Business Corporations Act, I believe, is

very good and adds to the ability for corporations to act in Alberta. A number of the provisions for shareholders I think are especially important. You know, it allows electronic participation, making it easier. It allows registered holders of beneficiaries to vote the share. These provisions, among many of them that are in here – and I won't go on at length – I think add to a strong bill that works in a very comprehensive way to look at many of the changes that are necessary in this area.

I support this bill, in closing, Mr. Speaker, and thank the mover of the bill.

[Motion carried; Bill 16 read a second time]

Bill 23
Administrative Procedures Amendment Act, 2005

[Adjourned debate March 21: Mr. Stevens]

The Deputy Speaker: The hon. Member for Edmonton-Glenora.

Dr. B. Miller: Thank you, Mr. Speaker. I rise to speak to Bill 23, Administrative Procedures Amendment Act, 2005, in its second reading. Bill 23 applies to what the bill calls decision-makers: boards and tribunals appointed under an Alberta act "to decide matters in accordance with the authority given under [the particular] Act," as stated in section 10(b). Such decision-makers include, as the Minister of Justice pointed out in his introduction to this bill, in his second reading explanation of this bill, such boards as the Labour Relations Board, the Securities Commission, the Energy and Utilities Board. Actually, the minister named 12 different boards to which this bill applies.

The problem which Bill 23 addresses is the issue of constitutional questions. Most of these boards will not ever have to deal with constitutional issues such as Charter challenges, but some will. Which boards should have the power to deal with such issues, and which boards should not have such powers? That problem, that issue, is what this bill is trying to deal with.

In part, as the minister explained, the Supreme Court of Canada recently made decisions in respect to two cases, one in British Columbia and one in Nova Scotia, where boards and tribunals were set up by the provinces. In these two cases these boards did rule on constitutional matters. There was a challenge, and the Supreme Court upheld their authorization to decide on constitutional matters.

9:30

The problem is that the provincial legislation empowering boards and tribunals does not in most cases explicitly make it clear that such powers are granted to them to discuss constitutional questions. So all the Supreme Court could do was try to interpret the empowering legislation of boards in B.C. and Nova Scotia. In effect, the Supreme Court threw the ball back to the provinces to ask them to make it clear in legislation which boards have the authority over constitutional matters and which do not.

Bill 23 tries to solve this problem. First, it gives designated provincial decision-makers, those so designated in section 16 of this bill, power to determine constitutional questions. Second, it then deprives any nondesignated provincial decision-maker of jurisdiction to determine a question of constitutional law. So Bill 23 kind of has a positive side and a negative side. Positively, it gives some boards the authority to deal with constitutional questions, but it also deprives other committees of being able to deal with such questions.

At first when I read this bill, I was seized by a mild fit of paranoia, wondering if this bill was granting too much power to provincial boards, granting them permission to interpret the Charter and the Constitution in whatever way seemed important to them, but the legal advice that I have received assured me that the effective and administrative tribunal or board decision on a question of constitutional law is quite limited. It applies only for the purposes of the board determined by the empowering act, and it cannot be made into a declaration of a law for more general purposes. If a board intended to have such a general effect, it would be making decisions which are unconstitutional.

Another way in which the decisions of the boards are limited is simply the fact that they are subject to the control of the courts. Anyone affected by the decision of a board dealing with constitutional questions has a right to appeal that to the courts by appealing directly to the court or by a judicial review, and the courts can set aside the decision. So given the limited scope of such board decisions, it does not seem that Bill 23 threatens our civil liberties or the rule of constitutional law.

Given what I've just said about the relations of boards to the courts, it is important to ask: what is the effect of this bill? What does it actually do? Is it really a solution to the perceived problem? For those boards which have already been dealing with constitutional questions, simply designating them as having the power to do so actually doesn't change anything. At the most this bill has the negative consequence of depriving certain boards of being able to deal with constitutional questions if they are not designated under 16(b). But what is the point of doing this? It's very hard to understand why this bill is coming to this House. What is the motivation for it? Maybe in Committee of the Whole we'll hear some explanation of why this bill is before us. It's difficult to not think that maybe there's some kind of hidden agenda here.

So I want to turn to two illustrations. The first illustration is the one provided by the Supreme Court, which is fairly clear. In that illustration an aboriginal person cut down four trees and planned to use the logs to build a porch on his house. Those logs were seized, and he was charged. In accordance with regulations set down by the B.C. Ministry of Forests, he shouldn't be doing this; this was against regulations. But that aboriginal person appealed on the basis that he has a constitutional right to do what he did. The board went ahead and dealt with that constitutional question in his favour, and the Supreme Court of Canada upheld that. So that's an interesting case. I'm not sure, though, whether this bill, which allows for the designating of such boards as being able to deal with those questions, would have made any difference in that kind of example.

The next example is more interesting for me, and this is kind of an imaginary example, but it illustrates the negative effect of this bill, which raises the issue of restricting access to justice. In other words, does this bill actually, then, make the whole process of access to justice just more complicated and so complex that, really, it's not in the interest of people who have appeals to make? The negative effect of this bill is, as I've said, to deprive certain boards or tribunals from being able to deal with constitutional questions; for example, take the illustration of same-sex marriage. By itself, Bill 23 would not directly impact the same-sex marriage issue. However, amendments to the Marriage Act along with this proposed Administrative Procedures Amendment Act could delay the application of the same-sex marriage legislation in Alberta. So in my view justice would be delayed, and access to justice would be restricted.

So let me explain. The Marriage Act as it exists now does not establish a tribunal to oversee the issuing of marriage licences. Appeals or challenges about marriage licences can be made to the director of vital statistics, or if alleged discrimination is involved, then appeals can be made directly to the Human Rights Commission. Since there's no delegated authority to deal with appeals regarding

questions of law, the government could amend the Marriage Act. I'm not saying that they should do this. I don't want them to think that they can add this to their list of options in dealing with the whole situation of same-sex marriage, but the government could amend the Marriage Act and establish an administrative tribunal to deal with licensing appeals. Let us call it the MLRB, the marriage licence review board.

Now, if under section 16 of the Administrative Procedures Amendment Act the MLRB as a decision-maker is not given the authority to determine questions of constitutional law, then it becomes impossible for anyone to appeal to such a board that their decision is unconstitutional. A same-sex couple who was refused a licence would not be able to appeal to such a board because that board cannot deal with constitutional issues. There would be no ability to seek a constitutional remedy from such a board because of exclusive withdrawal of its power to decide constitutional questions. The avenue open to such a same-sex couple would be to appeal to the Court of Queen's Bench in respect to the unconstitutionality of the empowering legislation of the authority of the board itself. Eventually, such amendments of the Marriage Act and such a tribunal probably would be struck down because it would go against the Charter.

Mr. Speaker, this is such a complex process, this designating of boards with powers to deal with constitutional questions or not, that I think the effect of it is that access to justice is severely restricted and limited. So I would vote against this bill for that reason. I'm asking myself the question: what have I accomplished in wading through all of this legal quagmire other than simply to waste my time trying to understand something that may be quite unnecessary? Perhaps the government should withdraw this bill and bring us something that really accomplishes something.

Thank you, Mr. Speaker.

The Deputy Speaker: The hon. Member for Edmonton-Calder.

Mr. Eggen: Thank you, Mr. Speaker. I rise with some interest to speak to Bill 23 here this evening. By and large I find that the bill is largely administrative in the sense that it's trying to keep up to some recent Supreme Court rulings that have taken place, as the previous hon. member has mentioned. There was, I believe, a Supreme Court decision, Paul and Martin – which is an interesting combination of words, isn't it? – coming from the Supreme Court. A coincidence, I suppose.

9:40

[Mr. Mitzel in the chair]

This decision was dealing specifically with a WCB claim and, you know, protecting, ultimately, the right for the WCB to make rulings on the constitutionality of the client's rights rather than a court making that decision. It's an interesting ruling, and I suppose that it is useful to bring in this bill before the Legislature to be in keeping with this recent development in the Supreme Court. In fact, I think that probably it is not an unreasonable thing to do, the main issue being that for all practical purposes we do create a myriad of tribunals and councils that administer everything from appeals and WCB to the tire recycling board, I suppose. Each one of these citizen groups, whether they're lawyers or not, are entrusted within a narrow scope of the interest of the boards to make some administrative decisions about, potentially, the constitutionality of what their jurisdiction is. Quite simply, I think that Bill 23 does satisfy that need.

I suppose that it does allow individuals to forego the expense and potential delay of courts, to have their cases decided rather by a board or a tribunal that is specific to their needs, so there might be some practical purpose for that as well. Otherwise, I suppose each bill that we consider here in the House has cast some reflection on other larger issues that are bearing our concern.

[The Deputy Speaker in the chair]

The one that comes to my mind is, you know, if we're looking at, say, the WCB being able to make decisions in regard to a person's constitutional rights. But then I noticed that Bill 23 here does provide a balance where a judge can intercede and say: "No. You can allow a court of law to make a ruling on something as well." So this Bill 23 is quite balanced in that respect. It does allow for a judge and lawyers to intercede if they deem it necessary. Yet in other bills that we have put forward here, talking about the WCB, we're sort of limiting that ability for an individual to use the court of law. So while this bill seems balanced in that way, I think other bills that we've been discussing recently here in this same room in regard to, say, the WCB tribunal have been very unbalanced. So, you know, I guess that's the way the world works, not justice all the time everywhere, each time in each place.

Regardless, my reading of this Bill 23 is to give it tentative support. I'm looking forward to debating the specifics in the Committee of the Whole. Thank you.

The Deputy Speaker: Hon. members, Standing Order 29(2)(a) is available for questions and comments. The hon. Member for Foothills-Rocky View.

Dr. Morton: Thank you, Mr. Speaker. I'd like to ask the hon. Member for Edmonton-Glenora if he's aware of any other English-speaking democracy that allows administrative tribunals to exercise this power of constitutional review. But since I can't ask him questions, I'll answer my question myself, and of course the answer is no.

I'd like to ask a second question as well, if he's familiar with the first principle of administrative law, which of course is that any administrative tribunal is the creature of the Legislature that creates in and, therefore, is subordinate to that Legislature, which of course explains the reason why no administrative tribunal in any English-speaking democracy exercises such a power of constitutional review. It would literally be the tail wagging the dog.

So I'm happy to speak in favour of this bill and correct a few misperceptions on the part of the hon. member.

The Deputy Speaker: Does the hon. member wish to comment?
Anyone else on Standing Order 29(2)(a)?
Anyone wish to participate in the debate?

Some Hon. Members: Question.

The Deputy Speaker: The question has been called.

[Motion carried; Bill 23 read a second time]

Bill 24
Fatality Inquiries Amendment Act, 2005

[Adjourned debate March 22: Mr. Stevens]

The Deputy Speaker: The hon. Member for Edmonton-Glenora.

Dr. B. Miller: Thank you, Mr. Speaker. I rise on this bill, Bill 24,

introduced by the Minister of Justice, the Fatality Inquiries Amendment Act, 2005. This bill is the culmination of a dialogue during the last few years involving many different interested groups. The debate has focused on the issue of finding a more effective method for public fatality inquiries.

The fatality inquiry process is, of course, extremely important to the public. Human life is sacred; every human life is sacred. Our society places a high value on human life. It follows that it is in the public interest to have a thorough investigation when there is a loss of life from what appear to be unnatural causes. Fatality inquiries which are thorough can teach us many things about how to protect human life in the future. Not only individuals but institutions are able to learn important lessons from such inquiries. Public confidence is at stake here. The public must have confidence that the government and the courts are doing all they can to investigate and make recommendations for the future.

I want to focus my attention on a couple of issues of concern in this bill. First of all, it is obvious that this amendment gives unprecedented powers to a single judge to seriously limit the nature, scope, and dissemination of information in respect of a public fatality inquiry. For example, a judge can meet with interested parties at any time and then proceed to limit the issues that will be under consideration in the inquiry. The judge will also have the power to stay the public inquiry if the judge is of the opinion that all matters related to the death have been examined and answered in another forum.

All references to a jury have been removed by this amendment. I find that interesting. I realize that no fatality inquiries have been held before a jury, but I think that it's one of the principles of fundamental justice in Canada that we have the right to have a hearing before a jury. Maybe we can debate that while this is in Committee of the Whole.

The addition in section 38 seems to change the power of judges. Previously a judge had all of the powers of a commissioner appointed under the Public Inquiries Act: powers to call in technical experts and legal counsel, not just clerks, reporters, and assistants. What was considered as a full investigation previously is now narrowed to what the judge considers to be required for the purposes of the inquiry. This is an inquiry limited, then, in the scope of its investigations, and it does not seem to me to be in the interest of a full, open, and transparent public inquiry.

If the goal of fatality inquiries is the prevention of future deaths, then we may well ask: why should there be any limits placed on the investigation of all the factors that led to the particular death? The goal of a fatality inquiry should not be to achieve efficiency, as the Minister of Justice has stated, but should be a full and public debate on the evidence, with full participation by everyone who can help us understand and save lives in the future.

9:50

That brings me to the most serious issue with this bill. Now, the Justice minister stated previously that one group intended to be affected generally by this proposal is the media. In Canada a fundamental freedom, according to section 2(b) of the Charter, includes "freedom of the press and other media of communication." Bill 24 would severely limit the participation of the media in public fatality inquiries. In this bill judges have the power to decide who should be present at a public fatality inquiry. Interested parties – that's the expression used – would have to make a good case that they have a "direct and substantial interest in the subject-matter of the inquiry." That's the phrase used: "direct and substantial interest." The minister interpreted this as meaning that substantial interest refers to personal or business or legal interest. Only parties meeting this criterion would have the right to examine evidence at a public fatality inquiry.

The Minister of Justice told the Legislature that the role of the media is to report the news, not to make it. A reporter can report on the process without actually being there to listen and observe. Well, allow me to remind this House of the famous remark made by the 18th century British statesman Edmund Burke. He commented that there are three estates in Parliament, referring to the priesthood, the aristocracy, and the commons, but he pointed out that "in the Reporters' Gallery yonder, there sat a Fourth Estate more important than they all." The fourth estate, consisting of journalists and authors, whose power consists of the words they write or speak, have for hundreds of years been seen as the guardians of democracy and the defenders of the public interest everywhere in the democratic world except, apparently, in Alberta, where we wish to limit the presence of the fourth estate at public fatality inquiries.

So the all-important question is this. If the media is restricted, how can such inquiries still be considered to be public? When a fatality occurs, whether the result of an accident or a crime, how is the public served if reporters are not permitted to attend such inquiries? We use the term "fourth estate" to refer to the media as a powerful watchdog revealing abuses of state authority and defending the democratic rights of citizens. How is democracy served if the fourth estate, our writers and journalists, are greeted at the courtroom door with a sign: "Private. Do not enter. No watchdogs allowed in here."? In so many different ways the public sphere is being eroded as more and more inquiries and decisions are being made behind closed doors. What we need in Alberta is more transparency, more openness, more public accountability, and more democracy.

So, Mr. Speaker, in conclusion, I would vote against this bill because it's going in the wrong direction in terms of public accountability. What we need is more openness at public fatality inquiries, not less.

Thank you.

The Deputy Speaker: The hon. Member for Edmonton-Strathcona.

Dr. Pannu: Thank you, Mr. Speaker. I rise to speak in the debate on Bill 24, the Fatality Inquiries Amendment Act, 2005. The Fatality Inquiries Act, the legislation that exists in the province, I think already has some problems with it that are in the nature of the legislation being relatively weak in ensuring that the public has access to the procedures of the inquiry, to what goes on during the inquiry. There is a fair bit of discretion in the hands of the presiding judge or justice to make the decisions as to whether the information before the inquiry is public, who can be there, and in some cases can rule against the information being made public.

What this set of amendments in Bill 24 does is further aggravate concerns of Albertans who would want to see more transparency and openness to fatality inquiries in this province. Fatality inquiries deal, of course, with fatalities that occur under situations where lots of questions remain unanswered as to why someone lost her or his life. Under what circumstances could the death have been prevented? Did it occur because of either confusion or ambiguities in the procedures attendant upon the situation in which this particular death occurred?

In other words, fatality inquiries have two purposes. One, of course, is that the government wants to reassure the public and make it aware that it's acting to ensure that guarantees relating to human life are duly respected, and as we all know, the right to life and liberty is guaranteed by most constitutions in modern democracies. Nothing is more valuable, nothing is more sacred than human life.

So when a death occurs, say, in a hospital or in a school or on a school excursion, as happened in the case of a well-known private school in Calgary some time ago, there are many questions that those deaths raise, that those fatalities raise. Those questions need to be addressed in order to both make sure that those questions with respect to the particular death are answered but also that questions are answered in a way so that such unnecessary loss of life can be avoided in the future.

Protection of life, insofar as it's possible, must always be the highest priority of any piece of legislation or any court or inquiry or any action related to human life that's in the hands of governments and legislators. So what's the problem with the amendments being proposed here, Mr. Speaker? That is the question before us, and I am sure that we will have the opportunity to look in detail at the clauses of the bill as we move into the next stage of debate on the bill; that is, the Committee of the Whole. But here I'm talking more in terms of principles and whether or not, in my judgment, Bill 24 is likely to accomplish the goals of reassuring the public and making it aware that the fatality inquiries undertaken in this province are done in such a way that they help to ensure the guarantees relating to human life and that they are duly respected by public agencies, institutions, and offices.

Now, one of the problems with this bill is that, in fact, it closes the doors of these inquiries to being public and being reported on. With the changes, if they are approved by this House, then this law that we will be creating will take the media out of the running for interested person status. That's one important thing. The media's ability to get interested person status is simply put outside of this law. It's beyond the reach of the media to seek that kind of status. So that, I think, is a step backwards because as I said, there are two purposes to the act: one, to look at the actual reasons why a death may have occurred and whether it could have been prevented; second, to educate the public and ourselves in general so that we learn from such tragedies in order to prevent such occurrences in the future. The media plays a very important role in educating us all with respect to the second objective of fatality inquiries, as I see it. So eliminating the ability of the media to be deemed as interested persons I think is a weakness.

10:00

Now, the Minister of Justice and Attorney General, of course, has argued that media don't need the power to ask questions or present evidence to the inquiry, but that's not the issue. I don't think that when the media gets interested person status, it automatically gets the power to ask questions or present evidence to the inquiry. I don't think that media intends to speak to inquiry issues, but certainly it intends to make sure that the inquiry is as open as possible and those of us who are not present at the inquiry learn on a daily basis about what goes on inside the inquiry room chamber.

Another problem is that the second or third amendment that the minister proposes says that a fatality inquiry will no longer be mandatory in the death of someone in care unless the death relates to government care. But there's a big grey area here. How would you know that a death was unrelated to guardianship without an inquiry?

A death when it takes place in a hospital. I remember the case of that young person who was rushed to the Foothills hospital in Calgary, I guess a year and a half ago or so, from High River, I believe. I'm trying to recall the details to the incident. He had, I think, appendicitis or some such infection. He was turned back from the emergency room by someone without thoroughly examining the person, and the person, I think, died on his way back. Certainly, that's not a death that occurred when the person was in the government's hands. Nevertheless, it is important for us to learn why that occurred.

To be able to expect that a fatality inquiry in such cases would be automatically ordered is an important way in which we can learn from past mistakes and assure the public that we as legislators and governments and other institutions remain ever faithful to the principles of protecting life whenever it is possible to do so and learn from mistakes. There will always be accidents. There will always be misjudgments. But there's always room when that happens, if you pay attention to under what circumstances those judgments were made or errors were made, to learn from them and to improve in our future practice when similar situations occur again.

Given that, I think the amendments that are sought in Bill 24 turn the clock back rather than help us forward. It happens to weaken an already relatively weak piece of legislation rather than strengthen it so that it would serve us better in the future. For those reasons, I'm inclined at this stage not to support the bill, but I do undertake to take a closer look and a more detailed look at the provisions of this bill. Hopefully, during the debate in the Committee of the Whole I'll be able to change my mind if I'm persuaded through strong arguments made either by the Minister of Justice and Attorney General himself or my other colleagues in this House. Until then, I withhold my support of this bill, Mr. Speaker.

Thank you.

The Deputy Speaker: Standing Order 29(2)(a) is available. The hon. Member for Vermilion-Lloydminster.

Mr. Snelgrove: Thank you, Mr. Speaker. My question to our learned and very objective friend across the way, the hon. member, would be this: hypothetically, given that the Gomery commission could turn into a fatality inquiry – in fact, the Liberal Party may die from it – would he think that the fact that the media, that isn't allowed to ask questions, that's controlled by the fellow who is the biggest crook in there, controls the CBC, or the fact that he appoints all the judges will be the biggest detriment to getting the truth out of what could be a fatality inquiry?

The Deputy Speaker: The hon. member.

Dr. Pannu: Thank you, Mr. Speaker. I certainly don't want to wish a Gomery inquiry on this government because that might lead to further fatalities as well.

We do need to get to the bottom of matters, and inquiries sometimes do help. Regardless of who is on the fatality table, I think that such inquiries are absolutely necessary in a democracy. That's how citizens are able to see through what their rulers may be doing with their tax dollars and to them and to seek ways of eliminating future possibilities for politicians or crooks being able to do that.

Thank you.

The Deputy Speaker: Any other comments or questions on 29(2)(a)?

The hon. Member for Edmonton-Meadowlark.

Mr. Tougas: Thank you, Mr. Speaker. I'm pleased to rise tonight to speak on Bill 24, the Fatality Inquiries Amendment Act, 2005. I'll make my comments brief since the hour is late.

Some Hon. Members: Thank you.

Mr. Tougas: You're very welcome.

The stated aim of this bill is to make the fatality review process

more effective and efficient. Now, while being efficient is all very well and good – and I believe that the government has created a whole department devoted to efficiency – it is not the be-all and end-all. The Minister of Justice and Attorney General indicated in his introduction of this bill that there was an extensive consultation process behind the act encompassing the Information and Privacy Commissioner, police forces, Canadian Medical Protective Association, and many other groups. It appears that the consultation process was quite thorough, covering virtually every interested party in the process with one notable exception, and I commend the Minister of Justice and Attorney General for conducting such a wide-ranging review.

As the minister himself said, "Some of the proposed amendments are procedural in nature, but many of them have a significant impact on the fatality inquiry process." First, the amendment to call a limited investigation into the death of an Albertan that happens outside the province is certainly worthwhile. While a death occurring outside of Alberta falls outside the scope of Alberta law, there may be instances where actions taken in Alberta may have contributed directly or indirectly to the fatality. This part of the bill will allow for a less formal investigation to be held into the incident with an eye towards preventing further deaths in the future. I wholeheartedly support this section of the amendment.

The section of the amendment deleting the requirements for mandatory fatality reviews for anyone who dies while they are in the custody, care, or guardianship of government is another nod to efficiency, but it does have its drawbacks. There are certainly times when what is now a mandatory review would no longer need to be called, but I caution the government to proceed carefully in this regard. While, certainly, there are many cases where the death was entirely accidental and not foreseeable, it should not be mandatory to hold a public inquiry in many of these cases. For example, the minister himself used the hypothetical situation of a 16 year old under government care driving a car and, unfortunately, dying in a motor vehicle accident. At present, because that 16 year old is under government care, there would be a mandatory fatality inquiry. Under the new rules there would not be an inquiry. But I ask: what if that 16 year old who was under government care was impaired at the time of the accident? I would think, then, that in a situation of this sort perhaps a public inquiry would still be held to investigate why the 16 year old in government care was drunk and driving a car at the time. Now, I suspect that there are many times when a fatality review is not required. I urge the government to move with caution in eliminating the mandatory provisions of this act.

10:10

The one area of very serious concern in this amendment, as the other speakers have mentioned, is the tightening of the rules regarding who may appear at a public inquiry and examine and cross-examine witnesses. The current law has a fairly broad interpretation of who may be regarded as an interested person and be allowed to participate in the inquiry. The amendment tightens this up considerably, allowing only a person who has a direct and substantial interest in the subject matter of the inquiry.

As my colleague from Edmonton-Glenora has already pointed out, the minister himself admitted that one group intended to be affected by the proposal is the media. The minister said, and I quote, "The role of the media is to report the news and not to make it." Mr. Speaker, this statement reveals a fundamental misunderstanding of how the news media works. The media is not supposed to be a service that simply regurgitates whatever was said at a public hearing or in the Legislature.

The media has always – and that is always – not only reported the news but has made the news. It was the news media, after all that ferreted out the information on this government's cavalier use of public aircraft as a high-flying taxi service. On a larger scale it was the news media that forced the Watergate scandal that brought down the presidency of Richard Nixon. Did the media make the news? Yes, it did. And we should be thankful for it.

In both of these cases and thousands of other cases over hundreds of years, it was the news media that created the news. Canada and all democracies of the world have been well served by a news media that did not just report the news but made the news. Only in dictatorships and communist countries is the media restricted to just reporting the news under the guise of the Tass news agency or Pravda.

It can also be argued, Mr. Speaker, that the government itself goes to great lengths to make news. This government's vast Public Affairs Bureau spends a great deal of time and millions of public dollars making news by churning out the happy news stories about government accomplishments.

Like it or not, Mr. Speaker, one of the news media's primary roles is to act as the eyes and ears of the public. The Canadian news media willingly allows for a number of restrictions to be placed on its freedoms in order to facilitate the fair trial process. The recent testimony at the Gomery inquiry upon which there was a publication ban placed, and which the Canadian media adhered to, is a good example. The news media in Canada has always shown a remarkable degree of restraint compared to the news media in the United States and particularly Britain, and I feel that it is unfair and unnecessary to further shackle the media as it attempts to do its job.

Perhaps in Committee of the Whole the minister will be able to supply this House with specific examples of how the media interfered with the effectiveness and efficiency of a public inquiry, but I sincerely doubt it. It seems to me that this government under the guise of increased efficiency is attempting to shut the door on public questioning at fatality inquiries.

Thank you.

The Deputy Speaker: Does anyone wish to comment or have a question under Standing Order 29(2)(a)?

Does anyone else wish to participate in debate? I recognize the hon. Member for Lethbridge-East.

Ms Pastoor: Thank you, Mr. Speaker. I will be brief. I'm waiting for the voices on the other side of the House to say: hmm. But whatever. The reason I'm standing up to speak is because I really believe that open and transparent discussion is a part of strong democracy. Bear with me, voices on the other side of the House.

I'd like to speak to this bill because I believe that it has the potential to limit interested persons from attending fatality inquiries, interested persons being an interesting use of a definition. A judge actually would be allowed to narrow the scope of who would participate at an inquiry. All of this is being done in the attempt to be effective and efficient. I'm not sure that these words should ever be used when you put it on the value of a human life that would be then applied to the bottom line. Especially, open, transparent, and honest criteria should never be compromised. The public must know – they mustn't just feel – without any doubt and have the confidence that inquiries are not tainted by politics. This bill could redefine the interested party. It could severely limit the participation of people or groups, and one of the groups that has been spoken about, of course – I won't go into great detail – is the media at fatality inquiries. Very important that we have open discussions.

A government that controls the information or, worse, the distribution of any information to the public, frankly, scares me; one

more step toward creating a powerful, hungry dictatorship. There are examples of this behaviour in history, and the consequences of a government with this kind of power are not pretty. The public must be allowed to unfiltered information regarding fatalities.

This bill also limits the scope of what can be investigated within the inquiry, and it would appear that this is all being done in the name of efficiency. As I said before, efficiency cannot be applied to human lives. A family who has been waiting two years for a public inquiry into a loved one who was working alone and was killed by a client has contacted me. The pain and the uncertainty and the waiting for this family is, in my mind, cruel and unusual punishment for the families of this victim. They wait and wait for what should have been considered a timely response, and they feel that the government is just hoping that they'll go away as they wait for the court system to inch its way along.

It was stated in *Hansard* on March 22, '05, that there are circumstances in questionable deaths "that the public interest would not be served by a fatality inquiry," an area that would have been mandatory in the past. That, frankly, scares me even more. In my mind, this represents the slippery slope to information control that's just too scary, Mr. Speaker, just too scary for me to be able to vote for this bill.

Mr. Speaker, I would like to move adjournment of debate.

[Motion to adjourn debate carried]

Bill 36
Police Amendment Act, 2005

[Adjourned debate April 7: Mr. Cenaiko]

Dr. B. Miller: Mr. Speaker, it's unusual for me to give three sermons in one evening. [interjection] Well, if you wanted to adjourn, somebody should have moved adjourn for the evening. So here comes my third one. I'm used to giving only one per week, not three in one evening.

I'm privileged to stand and respond to Bill 36, the Police Amendment Act, 2005, because this is a very important amendment to the Police Act, and it's overdue. It's been quite a few years since the Police Act has been amended. Because of changes in our culture and pressures from the public, it's certainly a timely amendment, the Police Amendment Act, 2005.

The purpose of Bill 36 is to provide legislation determining the proper relation between the police services of Alberta and the public. To that end, we have in this bill an outline of the function and manner of appointment of police committees and police commissions and an outline of the process for dealing with complaints concerning police actions.

The Solicitor General stated in his introduction of this bill that this legislation ensures fair and objective investigations into complaints against police and enhances the credibility of the complaint review process. I agree that that is the issue. In the organization of police committees and police commissions and the process of dealing with complaints, the issue is: do we have a system which the public perceives as fair, objective, and credible?

What I am hearing from the public and certainly the overwhelming viewpoint of the media is that we do not have a system of public civilian oversight of the police which fulfills the criteria of being objective and credible. This amendment to the Police Act fails in my estimation to provide the level of oversight which the public is demanding.

10:20

Recent serious incidents and complaints demonstrate the seriousness of the issue of dealing with police misconduct and the demand of the public for a better system of civilian review of police conduct. For example, the Overtime scandal involving a sting operation against a journalist and the former Police Commission chairman at the Overtime bar is one such incident; the recent ruling of a judge that excessive force was used with a taser by a police officer here in Edmonton; the death of a young boy, Giovanni Aleman, due to a police car involved in a high-speed chase in Edmonton, a chase where the police car didn't use emergency lights and sirens. There's the incident of the shooting of a man armed with a knife, which turned out to be a toy knife, by members of the Edmonton Police Service tactical squad.

Incidents such as these have seriously eroded the public's confidence in the Edmonton Police Service and other police services throughout Alberta. What the public is concerned about is how these incidents are dealt with in terms of investigating them and then reporting to the public, and there are even questions about the ability and the effectiveness of police investigating themselves. They're certainly concerned about the objectivity of such investigations.

Now, it's interesting that, you know, when police services first emerged in Britain a couple of centuries ago, the police were considered to be an extension of the public. The police represented the public. Sir Robert Peel was the founder of modern policing, and he served as the British Home Secretary during the 1820s. It was his act for improving the police in and near the metropolis that was passed through the British Parliament that resulted in the creation of the first law enforcement agency in modern history.

What is really interesting about Sir Robert Peel's proposal is something that's called Sir Robert Peel's nine principles. I'll just name two of them. The first one is that "the ability of the police to perform their duties is dependent upon public approval of police actions." There never was the idea in the beginning of the formation of police services that there should be a separation between the public and the police. They are identical. Another principle of Sir Robert Peel is that "police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police." It undermines the ability of the police service to do their work when we see an adversarial relationship between the public and the police service. When the public loses its confidence in the police service, it undermines their ability to do their work.

Mr. Speaker, we need a rewriting of the Police Act which would put into place mechanisms to handle complaints that would bring together the police and the public. Public policing was imported from England and introduced into Canada in the 1830s. The theory of public policing was always that the police carry out their duties on behalf of the citizens. As democracy grew, the conviction strengthened that enforcement of the law is ultimately the responsibility of every citizen. It follows, then, that citizens and police have exactly the same goal, and that is the prevention of crime and the maintenance of public order. So, to that end, it's extremely important to have the right kind of model for handling complaints, and this bill does not give us the right kind of model, not the kind of model that is going to inspire public confidence.

There are five types of civilian oversight, and the type that's represented by this bill is not adequate. The first type is the in-house model, whereby police officers receive a complaint, investigate it, determine if the complaint will be substantiated, and take any necessary follow-up action. In other words, police investigate the police. That's the in-house model.

Then, secondly, there's the externally supervised in-house model, in which there is some involvement of citizens, but their involvement is very limited.

Thirdly, the investigation is completed by the police, but the adjudication and final disposition of the complaint are determined by an independent body. That's a third model, and the reverse is possible: the investigation is independent, but the police perform the adjudication role.

The fifth model is the fully independent model, where civilians both investigate and adjudicate the complaint.

What is proposed in Bill 23 is the second one that I have listed, the second type of civilian oversight, with the police doing the investigating. There is a civilian appointment to oversee the process, but that civilian appointment does not contribute to the investigation. I think this reflects the Solicitor General's remarks to this House when I asked him about the need for civilian oversight. He said: well, the public can't investigate criminal activities; they don't have the experience; they don't have the skills; they don't have the training. That, to me, is demeaning of the public.

We do not need the kind of approach that pits the public and its abilities and capacities against the police. It goes against the very fact that other jurisdictions, other provinces have formed independent civilian oversight bodies where the public does obviously have the ability to investigate incidents within the police service. What is not understood is that the majority of citizens simply do not have confidence in a process in which the police investigate themselves, the in-house models. So this variation of the in-house model proposed by this bill will not be generally accepted by the public in Alberta, and we'll hear more and more comments in the news media and articles printed in the newspapers calling for a better model.

One such better model is the model that Ontario has, the Special Investigations Unit, which was established in 1990 as an independent, arm's-length agency of the government, led by a director and composed of civilian investigators. They would be quite surprised to hear the Solicitor General's remarks that the public does not have the skill or the ability to be involved in investigations. Apparently, legislators in Ontario do have confidence in the public's ability to carry out investigations. The motto of the Special Investigations Unit is Independent Investigations, Community Confidence, and that, Mr. Speaker, is the commentary I would like to make on this Bill 23. It does not provide us with independent investigations, community confidence. Those two things must go together if we're going to have a proper rewriting of this Police Act.

Thank you, Mr. Speaker.

The Deputy Speaker: The hon. Member for Edmonton-Calder.

Mr. Eggen: Thank you, Mr. Speaker. I'm rising to speak on Bill 36 here this evening. Now, it seems to me that it's funny in a way because I think there are two very distinct parts to this bill. The first part I find to be very reassuring, and I applaud the government's efforts to do so, while on the second part I have a number of serious questions.

First of all, the provision in Bill 36 to increase the province's responsibility to pay for the RCMP, essentially, from a population of 2,500 up to 5,000 is very welcome news. I think that the community policing that the RCMP provide in rural areas is absolutely essential. It's part of the glue that holds the communities together in rural areas. Indeed, the function of the RCMP in small towns extends far beyond the role of policing but also just adds a lot of stability and community contributions that have been a long part of our rural Alberta history.

10:30

So for the first part of this bill, certainly, I think this is welcome news, and I think that, hopefully, it's a reflection of this government's commitment to increasing on-the-ground police services and forces not just in the rural areas and small towns but also in the urban areas. I think that the perception of an increase in various types of property crime right across our province is a direct reflection of a lack of police force on the ground. So the more individuals, quite literally, Mr. Speaker, we can put onto the streets and working in communities, I think the safer we all will feel and, in fact, will be. So this is a step in the right direction.

The second part of this bill is to deal with oversights over the various police forces in the province. While I think that, certainly, this is an attempt to survey a perceived need that's coming out from all quarters of the province, both rural and urban areas, there are a number of different ways to approach this. At this juncture I think that probably people across this province, and certainly we as well as the people especially here in this city, are looking for more civilian oversights to do with the police as opposed to less.

So I think that if we can work with that through the second and third reading, then perhaps Bill 36 might be salvageable to some degree. Otherwise, the outcries that we've been hearing for, I guess, the ability to have regulation on the various police forces around our province was not an outcry for the police to be further regulating themselves, although this is the first place where regulation does occur, and in fact it occurs on a daily basis through the chain of command. But, you know, looking for a civilian body that has oversight over more serious allegations and that can function independently, I think, is really what is at the heart of the need that's being brought forward here in this province over the last couple of years or so. I think it's important for us with this bill to reflect on what is truly an independent civilian oversight commission: what that would look like, what sort of powers they would have, and how that due process could function in a useful sort of way.

I think that at the heart of any police system that we choose to employ in a society is that compliance is the essence of a functioning police force, the compliance of the population to adhere to the law and internalize those laws for themselves. We don't have police hanging over our heads or watching around every corner to make sure that we follow the law; rather, it's a system that's internalized through our culture and through a confidence that we have of not only our policing system but our judicial system as well. We are a willing participant in that system, and we like to see a reflection that there is interaction to make that system work.

So having independent civilian oversight, Mr. Speaker, into the function of the police force I think really does contribute to that sense of confidence and interaction that we need with our laws, and it allows people to feel that there is a reason to be confident, to know that if, say, individuals in the police force are perhaps not following procedure, there's another level of oversight that will kick in and provide protection for us. You know, this is an ongoing thing. It's not as though we're born inherently with any sort of sets of law or justice; rather, we have to cultivate them in our society. So a civilian, independent oversight commission of some sort, I think, would be most valuable.

Some other things that I would like to bring up that we perhaps can discuss further with third reading of this bill might include the problem of having a one-year time limit for people coming forward for complaints. Always these time limits. I mean, of course, life and all of our lives are temporal, but just having this – sometimes crime and for people to come forward to speak about crime takes longer, so perhaps this is a bit too short.

I think that, as well, we are seeing in this particular bill as it's written now that there's perhaps too much discretion put into the hands of the Justice minister. So again, as I say, disseminating the power down into independent commissions I think would increase

the confidence of the public, the media, and the police as well to comply to some new regulation. The idea here, I guess, is that part of the reason that people find it difficult to comply with the current system is that there's just too much self-regulation. I think that with any industry you have to have in a sense an independent regulator to be there, be it the police or health or electricity or whatever it happens to be. By having that interaction with some independence, I believe that we can come to more intelligent conclusions, and that's a general comment, not just on the police.

Finally, I think that we're seeing an evolution towards external review and investigation. It's an essential safeguard for a free and democratic society to have this in place, and I think that as Canadians, in general, we've done a very good job in promoting this. As I would like to say one more time, that's how we indeed do have a just and free society, that people agree to comply with the rules and regulations of our society. The police are certainly there to help you. On some occasions you might need a little assistance and reminders about the laws, but otherwise it's an internalized process.

So people have to believe in the system. They have to believe that it's just. They have to believe that it's serving them. I think that by extending some independent, civilian oversight to our police system, we would all be better for it.

Thank you.

Ms Evans: I'd like to move to move adjournment of debate on the bill, please.

[Motion to adjourn debate carried]

Bill 15
Workers' Compensation Amendment Act, 2005

[Debate adjourned April 6]

The Deputy Speaker: The hon. Member for Edmonton-Rutherford.

Mr. R. Miller: Thank you, Mr. Speaker. I imagine that I'm not the only one who's feeling the delayed hour, and I will attempt to keep my comments brief in recognition of that. Most of what I have to say may already have been said in this Assembly, but just in case I want to get my thoughts on the record.

Mr. Speaker, in speaking to Bill 15, there are a number of things that come out. Quite frankly, some of them seem to point to a pattern that I've referred to previously in this House when it comes to some of the legislation that we're being told is of a housekeeping nature or a relatively minor nature in terms of what is trying to be accomplished by it. I find it interesting that in some cases some of the movers of the bills, some of the ministries involved have gone to great lengths to consult with various stakeholders. In some cases, some of the legislation that's coming forward, we're getting feedback from stakeholders that, in fact, there's been little or no consultation, and the latter would appear to be the case with Bill 15.

10:40

I'm not sure why that is, if there's a particular reason why this particular bill appears not to have received a lot of consultation out in the real world, as it were, if there's a particular reason why it appears that this bill is being rushed forward when, in fact, those that the Official Opposition have consulted with indicate that they wish that they had a little more time to review the bill and the ramifications and impacts that it might have. In fact, if I'm correct, there was a reasoned amendment brought forward previously on this bill, which would have seen it set back until the fall, and that, unfortunately, was defeated. So I guess we have no choice now but to go ahead with the bill. I'm assuming that the government majority will see that it moves beyond second reading and into Committee of the Whole. Certainly, at that point there will be no shortage of debate and perhaps some amendments to it.

The Alberta Liberal opposition, Mr. Speaker, unlike the government, apparently, in this particular case went to great lengths to consult with the Alberta Building Trades Council, as an example, in seeking their input as to what they thought the impacts of this bill might be. We spoke to at least two employment lawyers, seeking their advice as to what they thought was good in this bill and areas where they thought there may need to be amendments. We spoke to the Alberta Federation of Labour and had some good response from them and also a WCB advocate who has extensive experience advocating for the rights of injured workers. Almost universally they came back with some positive comments but, certainly, some serious questions as to what exactly this bill might mean if it were to be passed in its current format.

Just to name a few examples, Mr. Speaker, the Alberta Federation of Labour has indicated that they were quite upset, quite frankly, that they were not consulted, saying that in general the government has been very good consulting with them on WCB matters, and in this particular case there was no consultation at all. That, certainly, has raised some concerns with them. They're wondering, in particular, how Bill 15 will change current practices. When we talk in here about the subrogation that is contemplated by the bill whereby a worker's rights would be taken over by the WCB, certainly they're wondering why there couldn't be consultation and co-operation between the WCB and the claimant in third-party actions, why it would appear that, in fact, the WCB is given the power to act unilaterally.

I believe that when my colleague from Edmonton-Manning spoke to this bill the other night, he referred to a recent court decision whereby, in fact, the Alberta courts were quite firm in their judgment involving a case with WCB whereby exactly this case was in play where the WCB had taken over completely the rights of a worker and overruled the worker's wishes in terms of what action would be pursued next.

Some of the feedback we got certainly indicates, as I said, some good things. The fact that under this new bill the WCB would be required to hold an annual general meeting that would be open to the public at which any matters raised in relation to the reports by those present at the meeting would be discussed: certainly, those that we've consulted feel that this is a step in the right direction and applaud the government for taking that small step at least.

Mr. Speaker, there is certainly some recognition of the fact that changes were badly needed to ensure that employers would be required to supply appropriate information in the case of a claim. This perhaps wasn't strong enough in the past. Again, some of the groups we consulted with are pleased with that and say that this will be a good thing for claimants.

However, they certainly have concerns about some other areas. When we get to, particularly, the situation with existing old contentious claims, Mr. Speaker, there seems to be in this case a situation where once again – and I know I've referred to this several times in debate on other bills – more and more power is being given to the Lieutenant Governor in Council in terms of passing regulations. What that means to me is that instead of having it in legislation, where it's open to public debate and public scrutiny, once again we're giving an awful lot of power to the backroom boys to do their changes in rules and regulations in private without, as I suggested, the public scrutiny and public debate that they deserve. Any time I see that, I'm greatly concerned, so I have that concern again with the changes that are being contemplated to Bill 15.

Mr. Speaker, in general it would appear to me that this bill reduces the accountability of the WCB and provides for it to act in its own interests and not necessarily the best interests of the workers in Alberta. Again, this strikes me as being somewhat similar to Bill 34, the Insurance Amendment Act, 2005, which I spoke to the other evening here, in which we have a clause that actually not only limits but excludes the right of individuals to seek legal recourse in the courts against the Alberta government for wrongs that may have been done to them.

Here again we have a situation where the government through legislation is limiting legal redress, and it causes me untold concern when we see that happening. Certainly, there has been no shortage of examples over the years of people who have felt hard done by by WCB decisions. Anything that would be seen to be stifling their legal rights certainly is going to raise the ire of not only those that are involved in these long-standing contentious claims but probably should concern all workers, who might through their own misfortune sometime in the future find themselves involved in a claim with the WCB.

Mr. Speaker, I mentioned that it seems that this particular bill is being rushed through the Legislature, and in fact some of the stakeholder groups are quite concerned. As I said, not only were they not consulted, but they feel that they really need some time to explore the ramifications of the bill and what it might mean. I hope that the fact that that's happening is not a reflection of or a response to the court case previously mentioned that, if I can use the terminology, sort of slapped the wrist of the WCB, but it would appear to my untrained and certainly not legal eye that that might be the case. I would hope that it isn't, but it does cause one to ponder.

Mr. Speaker, payment of compensation to the worker under this bill would be under the complete control of the WCB. Payments would only be made after the board has recovered its costs and legal fees have been covered. Again, the real concern here is that workers don't have the right to elect to pursue compensation in tort on their own or to choose to fall under the auspices of the WCB, as they do in other jurisdictions. Under this legislation they would simply have no choice but to allow the WCB to subrogate their claim.

10:50

Mr. Speaker, I think, as I said, that most of those issues have been raised before. I wanted to be on the record as raising them again because this is an issue that touches almost all Albertans. Most of us do fall under the WCB in our working careers, and certainly, as I suggested, whether or not we've ever been involved in a claim, there is the unfortunate reality that we all might be. Were that to be the case, we would certainly hope that the legislation in place would do its utmost to protect the worker and not necessarily the employer. For that reason, I will be voting against this bill when the time comes.

Thank you, Mr. Speaker.

The Deputy Speaker: Standing order 29(2)(a) is available for questions and comments.

Seeing none, anyone else wish to participate in the debate?

[Motion carried; Bill 15 read a second time]

head: **Government Bills and Orders**
Committee of the Whole

[Mr. Marz in the chair]

The Chair: I'd like to call the committee to order.

Bill 8
Personal Information Protection
Amendment Act, 2005

The Chair: The hon. Member for Highwood.

Mr. Groeneveld: Thank you, Mr. Chairman. As you know, the bill was pretty much housekeeping amendments, although there were a few questions in there, so just a short note on some explanations, and I would like to provide the further explanation on the amendment respecting health information.

In Alberta we have a comprehensive framework for privacy protection that applies to personal information in both the public and private sectors. Because of the special character of health information, Alberta also has a separate Health Information Act, that applies to the health information in both the public sector, which is the hospitals, and the private sector, which is the physicians. What this amendment does is carve out a body of information, health information that is covered by the Health Information Act, and make it clear that PIPA does not apply to that information.

At the same time, the amendment makes it clear that PIPA does apply to any health-related information that is not covered by the Health Information Act. For example, PIPA covers health-related information in an organization's personnel files, medical information requested by an insurance company in Alberta to issue a policy, and records of a psychologist providing privately paid services.

The Minister of Health and Wellness agrees to this amendment. The amendment ensures that there are no gaps in privacy protection, that there are clear rules as to which act applies.

Thank you, Mr. Chairman.

The Chair: The hon. Member for Edmonton-Mill Woods.

Mrs. Mather: Thank you, Mr. Chairman. I think it's always a healthy process when information access and privacy protection laws are reviewed and revised. The process is sometimes long and arduous, yet it results in greater awareness of these laws, and it assists us as legislators as well as public servants to become more informed and aware of the legislation too. Such amendments should also improve the legislation, especially if there is an opportunity for public and corporate input. I therefore wish to commend the government in bringing this forward.

Having said that, Mr. Chairman, I want to turn to some points of the proposed amendments that have been brought to my attention. Amendment 2, regarding section 4(3)(f), replaces what was previously a vague statement with a more specific one that establishes an order of paramountcy between two pieces of legislation; namely, that the provincial information and privacy act does not apply where the Health Information Act does apply. This jurisdictional issue between the two acts is better clarified here.

In amendment 2, regarding 4(3)(m) and (n), adding the constituency offices and associations is a good idea. I believe there was a case under our provincial FOIP Act, freedom of information and privacy protection, where an MLA's correspondence and financial records were requested, and the information requested was in the member's legislative office and the constituency office. There was some question as to whether the material stored in these offices was subject to the FOIP Act's section 4(1)(q)(ii). The ruling concluded that information in the custody of an MLA includes information in these offices. Now, most of the records being sought were not considered subject to the act, yet the Information and Privacy Commissioner interpreted that records in the legislative and constituency offices fell under the custody and control of an MLA

and were, therefore, under the act. That ruling by the commissioner gave section 4(1)(q)(ii) quite a broad scope.

Mr. Chairman, criticisms are sometimes made of judges, commissioners, and other nonelected officials making laws when they are, in fact, only doing the job the lawmakers gave them. It is important that we as legislators not hide behind such officials, leaving them to do the work and criticizing them for taking stands on matters on which we may not be prepared to commit ourselves. By clarifying the scope of coverage and specifically including legislative and constituency offices under the act, we are committing ourselves in accord with the earlier finding of our Information and Privacy Commissioner.

Whether we choose to act in support of rulings by officials, as this amendment does, or to overrule or correct these, as the hon. Member for Foothills-Rocky View proposed last Monday in a letter to the local newspaper, in both cases we are fulfilling our mandate as responsible legislators. This closer integration of legislative, executive, and administrative functions is a characteristic of our parliamentary tradition by contrast with that of the separation of powers practised by our sister democracy to the south. For this to work, we as legislators must be prepared to be responsible not only to our constituents but to each other to oversee the direction of government.

Mr. Chairman, responsible government as it is now practised throughout the world was a Canadian innovation from the 1840s. Britain already had parliamentary government, but British governments at that time were still often being led from an unelected upper House. Without an established aristocracy, Canada was the first country in the world to make her Executive Council responsible to a body of elected legislators.

If it seems that I have digressed into a discussion of our democratic heritage, it's not only because democratic renewal is dear to my heart. Most of the measures being proposed for democratic reform are imports from other systems that overlook the original strengths of our own system. Before we turn elsewhere for reform, I feel it is important that we utilize the means already available to us. We must commit to make the system work rather than simply work the system.

11:00

Greater use of private members' bills, such as we have been debating in this session, is one way to make our system work better. Another is the amendment before us, which confirms and strengthens the harmony between legislators, officials, and quasi-judicial bodies such as the Information and Privacy Commissioner. I am pleased therefore to speak in favour of this amendment with some of its points.

Another example of co-operation between different aspects of government, Mr. Chairman, is amendment 3 regarding section 43.1(1). This relates to common interests among provinces and between federal and provincial levels of government. Alberta's private-sector information legislation grew out of a federal initiative, the Personal Information Protection and Electronic Documents Act, which applied to all provinces until they enacted comparable legislation of their own. Alberta has now done so, yet the similarity with other regimes and other provinces and the fact that personal data crosses provincial boundaries points to the need for co-operation between jurisdictions. This is already taking place among the Information and Privacy Commissioners of Alberta, B.C., and the federal government.

The amendment regarding section 43.1(1) also deals with extraprovincial commissioners and refers to an information protection statute from the government of Canada or another province which is similar. However, it does not provide criteria for determining this similarity. Does this depend on a federal view of what is similar, or is it up to the provinces? This is not clear from the amendment. Mr. Chairman, is the sponsor, the Member for Highwood, aware of this, and are there any measures being taken to clarify this by way of an amendment to this amendment?

Also, Mr. Chairman, section 43.1(2)(g) of the bill reads that "notwithstanding anything in section 41, [the commissioner may] disclose information for the purposes of exercising or performing any power, duty or function pursuant to clauses (a) to (f)." This does not state to whom the information may be disclosed. Is it to the extraprovincial commissioners? This may appear to be picayune, but I feel it better to err on the side of being overly precise on a matter that concerns disclosure of information.

It appears that the amendments in this bill relate primarily to matters of housekeeping. This is still important, for we must keep our house in order legally as well as financially and socially.

I am not pleased with the provision of amendment 6, section 63(1), to provide for an automatic review every three years, beginning July 1, 2006, and reporting within 18 months. I am proposing an amendment to this act which would strike out the proposed amendment 6 and retain the original section 63(1), which is a result of royal assent on December 4, 2003. I have the papers here for the amendment.

The Chair: We will refer to this amendment as amendment A1.

You may proceed.

Mrs. Mather: Thank you, Mr. Chairman. The Bill 8 amendment seeks to delay by a year the first review of the act by a special committee of the Legislative Assembly. The original required review was by July 1, 2005, eighteen months after coming into force on January 1, 2004. An amendment delays this first review until July 1, 2006. I am proposing an amendment to this act which would strike out that proposed section 6 and retain the original section 63(1), which is a result of royal assent on December 4, 2003.

Given rapid changes in technology, I believe that frequent review is a good thing. Innovations in biometrics such as the new radio frequency identity tags permit tracking of individuals who have received an injection. Such measures are being used experimentally in the U.S. on people entering the country as a response to possible terrorism. In addition, more established measures such as video surveillance cameras that do not record what is observed fall outside present privacy law. These are developments that need to be monitored regularly and closely.

Mr. Chairman, access to information and protection of privacy are twin foundations of our democratic and personal rights and freedoms. Without information citizens cannot return an informed verdict on government when they vote. Without assurance of the privacy of their persons and information they may not have the confidence to express themselves freely without fear of reprisals.

The need for recourse to legislation in these areas is not an intrusion by additional laws to regulate people's lives. It arises from the need to prevent intrusion into people's lives by an ensemble of sophisticated techniques beyond the reach of most citizens and to attempt a measure of transparency by those who have power – state power, corporate power, and technological power – in short, to balance the odds and ensure that those who have those means that others lack are subject to the rule of law. To the extent that the amending of this legislation is a means to that end and with agreement to my amendment, I'm happy to support this bill.

Thank you.

The Chair: Does anyone wish to speak on amendment A1 to Bill 8, the Personal Information Protection Amendment Act, 2005?

[Motion on amendment A1 lost]

The Chair: The hon. Member for Edmonton-Manning on the bill.

Mr. Backs: I just have a few issues here, and seeing the late hour I'd like to move adjournment of this bill for now. [interjection] Go ahead now? Okay.

I've got a number of questions, Mr. Chairman, on this . . .

The Chair: Have you withdrawn your motion to adjourn?

Mr. Backs: I withdraw the motion.

Some of these questions deal with the repeal of certain clauses in section 2 and the extension of where we go in this Personal Information Protection Amendment Act in terms of how this affects, for example, people in public offices such as service clubs or, say, for example, unions. I mean, a union like the provincial public employees union has tens of thousands of members and has a very extensive electoral process. Are they to be treated separately in their elections than somebody in a constituency association? There are a number of types of democratic organizations that are very, very important in our democracy. It does not just extend to parties in the political process or even municipalities and municipal politicians; it extends deep into the way our system is set up, and that's an important first question I'd like to see answered.

11:10

The Chair: The hon. Member for Highwood.

Mr. Groeneveld: Thank you, Mr. Chairman. I think it quite clearly shows in the bill here that it's a registered constituency association, which would certainly pertain to a political nature such as we have here in the House. I know that it wouldn't cover the position that the hon. member is taking on the others.

Mr. Backs: Well, then, Mr. Chairman, I have some great difficulty with this because this bill does not allow for the full operation of democracy and, in fact, is biased as to what we do and only thinks as to what we do in the operation of political parties. I think that there's some significant cause for concern, and I think it's going to only be before us again in years to come because of people complaining about this particular extreme restriction of information that they will not be able to deal with in the same way that we deal with it. People should not be looking in our democracy at, I guess, people they see in the Legislature as being given a better deal on these types of things than the rest of the types of elected bodies we have in our society.

There were some additional questions, but I really don't want to go on for too long. That's enough for tonight. Thank you.

Mr. Groeneveld: Mr. Chairman, I would like to remind the hon. member that this is strictly for clarification. It is not a change in the act per se as from the original part of the act.

[The clauses of Bill 8 agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Chair: Opposed? Carried.

The hon. Deputy Government House Leader.

Mr. Zwozdesky: Thank you, Mr. Chairman. It's been a very, very interesting and very productive evening, and I would move that the committee now rise and report Bill 8, Personal Information Protection Amendment Act, 2005.

[Motion carried]

[The Deputy Speaker in the chair]

The Deputy Speaker: The hon. Member for Cypress-Medicine Hat.

Mr. Mitzel: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration a certain bill: Bill 8. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

The Deputy Speaker: Does the Assembly concur in the report?

Hon. Members: Agreed.

The Deputy Speaker: Opposed? Carried.

The hon. Deputy Government House Leader.

Mr. Zwozdesky: Thank you, Mr. Speaker. I would move in view of the hour that we adjourn and reconvene tomorrow at 1:30 p.m.

[Motion carried; at 11:16 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]