

Legislative Assembly of Alberta

Title: **Thursday, April 22, 1993**

2:30 p.m.

Date: 93/04/22

[Mr. Speaker in the Chair]

head: **Prayers**

MR. SPEAKER: Let us pray.

O Lord, grant us a daily awareness of the precious gift of life which You have given us.

As Members of this Legislative Assembly we dedicate our lives anew to the service of both our province and our country.

Amen.

head: **Presenting Petitions**

MR. SPEAKER: The Member for Olds-Didsbury, followed by Edmonton-Avonmore.

MR. BRASSARD: Yes, Mr. Speaker. I wish to table with this Assembly a petition containing the signatures of 40 of my constituents who are opposed to the sale of alcohol through grocery stores, making it even more readily accessible than it is already.

MS M. LAING: Mr. Speaker, I would like to table a petition signed by people from across Alberta urging the government to demonstrate its commitment to a strong independent Advisory Council on Women's Issues by appointing as chair a woman experienced in advocacy for women.

head: **Notices of Motions**

MR. ROSTAD: Mr. Speaker, it's my intention to rise at the end of question period to raise a point of privilege.

head: **Introduction of Bills**

Bill 60 Alberta School Boards Association Amendment Act, 1993

MR. JONSON: Mr. Speaker, I request leave to introduce Bill 60, the Alberta School Boards Association Amendment Act, 1993.

Mr. Speaker, this Bill provides for clarification and changes with respect to service provided by the SBA to nonoperating school boards and to school boards in the Northwest Territories.

[Leave granted; Bill 60 read a first time]

MR. SPEAKER: The Minister of Justice.

Bill 57 Electoral Divisions Amendment Act, 1993

MR. FOWLER: Thank you, Mr. Speaker. I'm pleased to introduce for first reading in the Legislature Bill 57, the Electoral Divisions Amendment Act, 1993.

This Bill will amend the schedule to the Electoral Divisions Statutes Amendment Act, 1993. The object of Bill 57 is to make amendments and correct an oversight of a technical nature to accomplish the original intent of the Electoral Divisions Statutes Amendment Act, 1993.

Thank you.

[Leave granted; Bill 57 read a first time]

Bill 59

Pacific Western Airlines Amendment Act, 1993

MRS. B. LAING: Mr. Speaker, I request leave to introduce a Bill being Bill 59, the Pacific Western Airlines Amendment Act, 1993.

Thank you.

[Leave granted; Bill 59 read a first time]

MR. KOWALSKI: Mr. Speaker, I would move as well that Bill 59, the Pacific Western Airlines Amendment Act, 1993, be noted as a government Bill.

[Motion carried]

head: **Tabling Returns and Reports**

MRS. McCLELLAN: Mr. Speaker, I'm pleased to table with the Assembly the following annual reports: the Alberta Association of Registered Nurses for the year ended September 30, 1992, the Mental Health Patient Advocate for the year ended December 31, 1992, and the Public Health Advisory and Appeal Board for the year ended July 31, 1992.

MS M. LAING: Mr. Speaker, I would like to file for the information of the members of this Assembly two petitions. The first one calls on the government to commit itself to a strong Human Rights Commission, which will advocate for the basic human rights of all Albertans. The second one calls on the Minister of Community Development to take a 35 percent cut in pay because she does not believe in pay equity.

MR. SPEAKER: The Chair will examine the Blues to see what the structural difference is between this and the earlier calling for petitions.

MR. ISLEY: Mr. Speaker, in recognition of National Soil Conservation Week, April 19 to 25, I take pleasure in tabling copies of a joint Alberta/Canada soil conservation kit.

MR. KOWALSKI: Mr. Speaker, I'd like to table with the Assembly today three reports: the first is the 1992 annual report of the Alberta Association of Architects, the second is the 1992-93 annual report of the Association of Professional Engineers, Geologists and Geophysicists of Alberta, and the third is the 1991-92 annual report of the Alberta Educational Communications Corporation.

MR. MacDONALD: Mr. Speaker, I am tabling four copies of a letter sent by the former Minister of Education to the Alberta Teachers' Association regarding pensions.

head: **Introduction of Special Guests**

MR. SPEAKER: The Member for West Yellowhead.

MR. DOYLE: Thank you, Mr. Speaker. I have in both the government and the other gallery today children from the Gerard Redmond school in Hinton. There are also 10 adults, teachers and parents of those children. These are very well-educated people and great protectors of the environment, like myself.

Thank you.

MRS. MIROSH: Mr. Speaker, I'd like to introduce to you and through you a group of visitors from the Calgary-Glenmore

constituency. They're 29 students from St. Stephen school, and they are accompanied by their teacher Mrs. Lucia Cousin and parents and helpers Mr. Marty Gibson, Mr. Doug Hartwick, and Mr. Carlo Romano. Would they please rise so we can welcome this fine looking group of students to the Legislative Assembly.

MR. SPEAKER: Calgary-North West, followed by Smoky River.

MR. BRUSEKER: Thank you, Mr. Speaker. It is my pleasure to introduce to you and to Members of the Legislative Assembly a group of 32 grade 6 students from St. Vincent de Paul school in the constituency of Calgary-North West. A group of students from this school has been coming to the Legislature for about the last five years, and the tradition continues. Ms Ellen Nolan is their teacher here today, and we have four parents Mrs. Purcka, Mrs. Haskewich, and Mr. and Mrs. Couzens. I believe they're in the public gallery. I would ask them to rise and ask my colleagues in the Legislature to extend a warm welcome to these students.

2:40

MR. SPEAKER: Smoky River.

MR. PASZKOWSKI: Thank you, Mr. Speaker. It's my pleasure to introduce to you and through you to the members of the Assembly four very special guests from the Smoky River constituency: Jacqueline and Jeannine Marskell and Marie and Suzanne Cailliau from the community of Valleyview. They're seated in the members' gallery, and I would ask them to rise and receive the usual warm welcome of the House.

MR. SPEAKER: Redwater-Andrew.

MR. ZARUSKY: Well, thank you, Mr. Speaker. It's a pleasure today to introduce to you and to the Assembly a person that's very well known to this Assembly and also to the people and province of Alberta, a former member for the Clover Bar constituency, Dr. Walt Buck, a resident in the Redwater-Andrew constituency and also a resident in the new Redwater constituency. I'd ask that he rise in the Speaker's gallery and receive our warm welcome.

head: **Ministerial Statements**
Earth Day

MR. SPEAKER: The Minister of Environmental Protection.

MR. EVANS: Thank you very much, Mr. Speaker. I'm pleased to rise in the Assembly today to recognize Earth Day. Earth Day is an important day for Alberta. It's really the one day in the year that we can all reflect on the importance of protecting our planet, a home that we all share.

Earth Day is an event, Mr. Speaker. Today special events will take place all over Alberta and indeed around the world, from parades and rallies to ecofairs, seminars, and workshops, from environmental presentations and displays to tree plantings and community cleanups. Earth Day provides all of us with an opportunity to increase environmental awareness and appreciation of our precious natural resources. Earth Day is also a reminder of the fact that our existence and well-being are dependent upon the protection of the Earth's natural resources. It's a reminder that our air, our land, our water, our forests, our wildlife, and our wilderness must be protected for future generations.

Earth Day is a call to action as well, Mr. Speaker. As Albertans and Canadians we can choose to make every day Earth Day. Each of us has a responsibility to reduce our own personal environ-

mental impact. After all, the protection of the environment must be a responsibility shared equally by everyone to ensure our high quality of life. Since the first Earth Day was observed on April 22, 1970, environmental values and concerns have changed dramatically. We've replaced our complacency about our natural surroundings with action. More and more individuals and especially our youth are answering the call to act.

Today, on Earth Day, Mr. Speaker, I encourage all Albertans to take a moment to reflect upon the importance of our environment.

MR. MARTIN: Well, it's hard to disagree with Earth Day, Mr. Speaker, but talk is rather cheap. It says in there, I quote again, "We have replaced our complacency about our natural surroundings with action." While I agree that "more and more individuals and . . . our youth are answering the call to act," frankly I don't think the government is.

I just refer you to yesterday, when we said that the Environmental Protection and Enhancement Act, something we've been talking about, is not going to come into force until September 1. In the meantime some major projects are going to occur at this particular time to get around this Act, Mr. Speaker. I hardly think this is dealing with the significance of Earth Day in the way the minister talked about it.

I notice that we don't have in this Legislature, as they do in many parts of the world, laws dealing with recycling, which would create green jobs and would also protect the environment, Mr. Speaker. I don't see that we've necessarily dealt with the tire problem in the most efficient way we can deal with that. I notice a recent report about the ozone layer in Edmonton being perhaps the worst in Canada, and I don't see anything happening there.

In other words, rhetoric is good and the ministerial statement is nice, but we're going to look for action from this government and we're going to demand action from this government, Mr. Speaker.

Thank you.

head: **Oral Question Period**

MLA Pensions

MR. MARTIN: Mr. Speaker, I know the Premier would love the MLA pensions and the retroactivity to go away, but it's not going to. As I mentioned yesterday, this is a very, very serious issue with all Albertans because it's become a symbol of how they're acting and how people here are acting. Now, previously the Premier said: well, it would be against administrative law to do this. Well, I would like to table in the Legislature four copies of a confidential internal government memo dated March 26, 1993, which advises clearly that all that is needed to amend public-sector pension legislation is the will of the Legislature; in other words, the Legislature can do what they want. My first question to the Premier is simply this: why did the Premier mislead Albertans in saying that this would be against the law when his own government had documents indicating clearly that the parliament here, the Legislature, is sacrosanct, and we can change the laws and we can retroactively change MLA's pensions? Why did he say that it was against the law?

MR. KLEIN: Mr. Speaker, I said that it would violate the fundamental principles of administrative law. Indeed the Peat Marwick report points that out quite clearly, and they state that quite clearly.

Let's just retrace the history of this whole pension plan, and let's look at what is being done and what is being proposed, although the legislation won't come in until perhaps sometime next week. The Members' Services Committee, this all-party commit-

tee, appointed the consulting firm of Peat Marwick to study all aspects of MLA compensation. They have recommended the following, and I quote:

We recommend that the benefit formula be modified from 4% to 3% of final average pensionable earnings . . . and that the eligibility requirements . . . be changed from "age and service = 55" to 65. The net effect of this [and I think this is most important] will be to reduce the value of one year's pension benefit for a typical MLA by \$11,658, and for a typical Minister by \$22,708.

The Peat Marwick report also says: it would be inherently unfair and would violate the principles of administrative law to make it retroactive.

Mr. Speaker, we will be bringing in those amendments, and as a result of the program that we plan to bring in – and I think this should be noticed – we will have the least generous MLA pension plan of any province or any territory in Canada. Those are the facts. [some applause]

MR. MARTIN: The facts. Well, I would pound, all these people, the 30 that are going to walk away with a handshake. Yeah, pound, and let Albertans see that.

Mr. Speaker, the facts are that Peat Marwick are not legal experts. Why do you hire people to do this when they indicate very clearly that the Legislature here could retroactively say no to these people that are going to walk away with a golden handshake? Let's listen to your own experts and do the right thing. I call on the Premier to do that. If not, why not?

MR. KLEIN: Well, Mr. Speaker, since we're in the business of tabling letters, I've got one of my own I would like to table. It's an internal government document, and it wasn't leaked to me. I simply asked for it.

Mr. Speaker, I would like to inform the Legislature that Saskatchewan indeed introduced retroactivity, and that matter is currently before the courts. In preliminary opinions on this matter – and I'll be tabling the documentation – the retroactive cancellation of rights which have accrued through time may be fairly considered an expropriation of those rights. [interjection] Zipper it, Grant. Listen.

Indeed in the opinion of Alberta's Chief Parliamentary Counsel, and I quote:

A number of precedents in Canada lead me to conclude that the courts would be unlikely to allow a wholesale expropriation of pension rights without fair compensation.

Now, I think this is why the leader of the ND opposition and the leader of the Liberal opposition are so confident and so willing, as they smell an election in the air, to go out and start yapping about retroactivity, because they know that their members will be compensated in the long run. I further quote:

As we have already noted, the distinction between retroactivity and impairment of vested rights is now well-established in the precedent of the Supreme Court.

MR. SPEAKER: Thank you, Mr. Premier. I think we need to save some for whatever the next question might be.

2:50

MR. MARTIN: All the huffing and puffing and righteous indignation is not going to change this. You can make a decision in this Legislature. Your buddy Brian Mulroney said: you have a choice to make. Now, you can either be fair to the taxpayers of Alberta or you can reward these people that brought us NovAtel. That's a choice you're going to have to make. This makes it very clear. You're not extinguishing rights. I would ask the Premier this: isn't it true that when people ran in 1989, they were not

expecting a 30 percent raise and as a result a 40 percent increase in their pensions at this particular time? So you're not extinguishing those rights. You can go back to 1989, and it would be legally upheld in every court.

MR. KLEIN: Mr. Speaker, I know it's unparliamentary to use the word "hypocrite," but we can allude to hypocrisy. My gosh; this member voted and is involved in the pension plan. This member didn't do anything when pensions were up for change through amendments to do what he's proposing to do now. He knew all the facts, and that was after the raise had taken place. I have never heard such hypocrisy for political expediency in my whole life. The issue they're talking about is a shell game, and the hon. member knows it. Any member, any NDP member, any Liberal member, who has something taken away by this Legislature will get it back through the courts, and the hon. member knows that too. So let's start to tell the truth about this issue. [interjections]

MR. SPEAKER: Second main question. [interjections] Order. Second main question, Leader of the Opposition.

Drug Assistance Program

MR. MARTIN: Well, Mr. Speaker, we'll take another look at a double standard practised by this government. The cost of drug benefits has doubled in Alberta since 1985-86 from \$69 million to \$140 million. There are currently negotiations under way between the government and pharmacists over how pharmacists will be paid for dispensing drugs. Unfortunately, these negotiations have been dragging on for over a year. My first question to the Minister of Health: will the minister tell this Assembly why these negotiations have stalled for so long and continue to cost taxpayers millions of dollars?

MRS. McCLELLAN: Well, Mr. Speaker, the negotiations between the pharmacists and Alberta Health are between the pharmacists and Alberta Health and will be carried out that way. There is an assumption by the member that this is costing our government millions of dollars that I don't share.

MR. MARTIN: Well, I just pointed out that it's doubled in the last five years. It's very expensive, \$140 million.

Now, Mr. Speaker, pharmacists have proposed a method that would see them reimbursed on the basis of the lowest cost alternative; in other words, generic drugs. The Department of Health is refusing to look at this route. That's what's costing us extra money. This would save us millions of dollars, if we adopt what they're advocating. My question to the minister is simply this: why are the Minister of Health and her department not prepared to accept this alternative proposed by the pharmacists?

MRS. McCLELLAN: Well, Mr. Speaker, now we get to the gist of the savings of the millions of dollars. It is true that currently about 50 percent of pharmaceuticals on the market have an available lower cost alternative. It is also true that only about one quarter of the prescriptions being written in Alberta today use the lower cost alternative. Those are available and can be used and can be dispensed, and certainly we would save considerably more dollars if they were.

What is not correct in the member's statement is that Alberta Health has refused to consider this. We are considering this, and we'll include that consideration in our decision-making on this matter.

MR. MARTIN: Mr. Speaker, you have a Premier talking about user fees. You have them talking about cutbacks. The Pharmaceutical Association says that we would save \$20 million simply by making it mandatory that we do this. My question to the minister is: why as the minister is she not saying, "Make it mandatory"? Get on with this, and we'd save the money right away.

MRS. McCLELLAN: Well, what the hon. member is suggesting is that we force this issue and we force physicians to use lower cost alternatives.

MR. McEACHERN: Why not?

MRS. McCLELLAN: Okay. I'm pleased to have your position on the table.

Currently the lower cost alternatives are available in Alberta, and as I indicated, only about a quarter of the prescriptions are being written using those. I have also outlined for the hon. member that we are considering this issue in the full context of the issue.

Provincial Fiscal Policies

MR. DECORE: Mr. Speaker, in 1991 the government promised a \$33 million surplus. They were a wee bit out. We had a \$2.1 billion deficit instead. In 1992 the government passed the Spending Control Act, which was supposed to limit expenditures by special warrant. It breached its own law in that regard. In January of this year the Premier told the finance minister: you go out and tell Albertans the truth; tell them what the real deficit is going to be. The Treasurer came forward and said: the real deficit is \$2.6 billion. Three months later the Financial Review Commission said: no, not \$2.6 billion; it's \$3.2 billion. Six hundred million dollars more in just three months. My first question to the Premier is this. The Premier talks about legislating balanced budgets, but the government that the Premier has been involved in has been effective in breaking promises and breaching its own laws. What's going to be different this time, Mr. Premier?

MR. KLEIN: Well, first of all, you're absolutely right. The difference, I think, has been demonstrated in our willingness to open up all our books to an independent body, the Financial Review Commission, to bring together highly respected people, like Marsh Williams and George Cornish and nine of the best financial minds in this province, to bring forth a report, which we openly and in a very straightforward fashion tabled for all Albertans to see, to get a full understanding as to what our financial problem is and how we go on to address that problem in the future. I think you will see that plan unfold in a very straightforward, honest way when the budget is presented later on.

MR. DECORE: Mr. Speaker, the Premier has been part of the government, he's been sitting in this Legislature, since 1989. The debt has gone from \$10 billion to almost \$25 billion. There are matters of principle, and I'd like to ask the Premier why he didn't stand up in 1989, 1990, 1991, 1992 and say to the people of Alberta: "The books are being cooked. You're not getting the correct facts. The deficits are greater than they should be." Why didn't he tell the people the truth?

MR. KLEIN: Well, Mr. Speaker, we are telling the people the truth. If he's calling Mr. Williams and Mr. Cornish and those nine people liars, then I would be very, very concerned, and I would

suggest that the hon. member be a little more careful. You know, we might not be in this situation had we not paid \$60 billion to the Liberal federal government through the national energy policy.

3:00

MR. DECORE: Mr. Speaker, it's clear that the Premier either didn't know what was going on, didn't care what was going on, or knew and didn't have the courage to tell Albertans that the deficits were as high as they were and didn't have the courage to deal with Albertans. I'd like him to stand up and tell Albertans why he didn't have that courage.

MR. KLEIN: If the hon. member will just stay tuned, be patient, he will see courage. He will see courage when we bring down this budget and face head on and dead on the financial problems of this province. Stay tuned.

MR. SPEAKER: Olds-Didsbury, followed by West Yellowhead.

Comments by Minister of Justice

MR. BRASSARD: Yes, Mr. Speaker. I believe it's a fundamental aspect of our society that police officers and the chief law officer of this province strongly support each other. Every day each and every one of us depend on a police agency that is dedicated to protect and serve. The Minister of Justice, as the chief law enforcement officer of the province, sets the broad tone that guides the deliberations of the police commissions that function in many of our communities. Recent comments attributed to the spokesmen of two major police associations suggest that apparently a problem exists. My question is to the Minister of Justice. Can the minister report to this House if in fact a problem exists between himself and the police?

MR. TAYLOR: Just a friendly little kissing match.

MR. FOWLER: Mr. Speaker . . .

MR. TAYLOR: You tell them, Mr. Frog.

Speaker's Ruling Parliamentary Language

MR. SPEAKER: What was the comment, Westlock-Sturgeon?

MR. TAYLOR: Well, I'm glad you noticed me.

MR. SPEAKER: I'll check the Blues, but I hope *Hansard* didn't pick up what I thought I heard.

The Minister of Justice, please.

Comments by Minister of Justice (continued)

MR. FOWLER: In over the four years I've been in the Legislature and honoured to serve in the capacity of solicitor general previously and now Minister of Justice, I've always maintained an excellent relationship with all police forces in this province, and I want to say that I will continue to do so. We have 4,526 uniformed policemen in red and blue in this province. There is not an elected member in this Legislature or in fact any Legislature or the House of Commons that has a higher regard than I do for these men and women and the work they do under the extremely difficult circumstances of today. Their job continues to be of an outstanding nature.

I was disappointed to read myself that the heads of two police associations felt that I was in fact nonsupportive because of certain comments that they had read or that had been reread to them by others. I am particularly disappointed because nobody in fact contacted me to see what my comments were or what they pertained to.

MR. BRASSARD: Given that information, Mr. Speaker, is the minister planning to meet with those representatives to discuss any concerns that they may have and resolve this issue?

MR. FOWLER: Within 36 hours of the comments being published by Mr. Norm Koch, head of the police association in Edmonton, and Mike Dungey, head of the police association in Calgary, I personally contacted both of them. As a result of that contact, a meeting is set with these gentlemen for next Wednesday.

Family Violence

MR. DOYLE: Mr. Speaker, the government recently announced that it's cutting funding to the Yellowhead Emergency Shelter for Women in Hinton and the Grande Cache satellite on the basis of a low occupancy rate. Cuts will mean that 17 beds will be cut to five, staff will be cut, wages will be reduced, loss of the 1-800 phone service, and important education outreach programs will also be eliminated. The current funding model does not take into account the needs for outreach workers and public education personnel to ensure that women are aware of the services available as well as to build a trust with future clients.

MR. CLEGG: Question.

MR. DOYLE: Don't be impatient.

Will the minister acknowledge that conditions in rural communities are unique and that the current funding model is adequate to meet the needs of rural Albertans? I'd like to ask the Minister of Family and Social Services.

MR. CARDINAL: Thank you very much. Mr. Speaker, I appreciate that question. Our funding is based on occupancy rates in those facilities. The occupancy rate at the centre the hon. member is referring to is running less than 35 percent at this time, and therefore funding is adjusted accordingly. Again, I want to indicate to the House that part of the welfare reform package is to reprioritize our needs and redirect dollars to where they're needed most. If in the future they are needed in this direction, then you can be assured that dollars will be directed in that area. At this time we have a budget of over \$8 million in that particular area.

MR. DOYLE: Mr. Speaker, they certainly are needed.

Not only will it reduce the funding, but it'll hurt victims also. Important treatment for the offenders is also eliminated. The Grande Cache satellite will no longer be able to run programs on family violence and an anger control group for men in the local correctional centre. In light of the serious consequences resulting from these cuts, will the minister now commit to restoring funding to these very important services in Grande Cache and Hinton immediately?

MR. CARDINAL: Mr. Speaker, I will review the issue again and just see what the situation is like and fund it accordingly if the need is there.

MR. SPEAKER: Edmonton-Meadowlark, followed by Cypress-Redcliff.

Administration of Justice

MR. MITCHELL: Thank you, Mr. Speaker. If ever there was a clear guideline for politicians' behaviour, it is that they should never interfere with the judiciary, and they should especially not be making recommendations about sentencing in cases before the court. In what is becoming a consistent pattern, the Premier shirked his responsibility when this issue arose yesterday and referred the case to somebody else to deal with. To the Premier: will the Premier show some leadership in this matter now and tell Albertans whether he thinks it is right for a politician, a member of his caucus, to try to influence the courts?

Speaker's Ruling Privilege

MR. SPEAKER: The Member for Edmonton-Meadowlark knows full well that this is a subject of privilege being raised later today.

MR. KLEIN: Oh, but the other person isn't here.

MR. SPEAKER: No, the other person isn't here. The matter will still be raised. The question is out of order.

MR. SPEAKER: Cypress-Redcliff, followed by Edmonton-Kingsway.

Barley Marketing

MR. HYLAND: Thank you, Mr. Speaker. I wonder if I can ask the minister of agriculture a question related to a report that was just prepared dealing with the continental barley market. I wonder if the minister can state the government of Alberta's position as it's related to the acceptance or rejection of that report.

MR. ISLEY: Mr. Speaker, as members of the Assembly know, Alberta Agriculture through the Alberta Grain Commission put out the continental barley marketing proposal, which was never put forward as an official position of the government but simply a compromised position between what the western barley growers wanted to do, which was take barley out from under the Canadian Wheat Board, and the status quo. The federal government commissioned Dr. Carter from the University of California to do a study on the impact on our producers if that barley marketing method was implemented. The study, released in Leduc on Monday of this week, shows a potential cash increase at the farm gate to producers of barley of \$65 million per annum and predicts that because of increased acreages the increase would probably be \$127 million per annum.

This minister of agriculture is certainly supporting the recommendation that we move to the continental barley marketing system and has submitted a letter of encouragement to the federal minister to make the decision before spring planting.

MR. HYLAND: Mr. Speaker, a supplementary to the minister. I think that with this new barley marketing policy there is very strong support in the south, and as it gets further north, away from the border and the distance related to it, there is, as I understand at least, a different view of this market. At one time I believe the minister talked about a producer plebiscite before we entered this market. Is there any thought between yourselves and/or the federal minister of a producer plebiscite?

3:10

MR. ISLEY: Mr. Speaker, I believe this minister was the one that over a year ago recommended to the Canadian Wheat Board that they conduct a plebiscite on this issue in the Canadian Wheat

Board designated area. The Canadian Wheat Board was not prepared to do it at that point in time. The federal minister then chose to approach the issue by setting up the round table on barley marketing, which commissioned the study that I outlined briefly earlier. I think that with this kind of evidence in front of the producers the time for plebiscites is beyond us; the time for action is here.

MR. SPEAKER: Edmonton-Kingsway.

Telus Corporation

MR. McEACHERN: Thank you, Mr. Speaker. My questions are to the Minister of Economic Development and Tourism. In the summer of 1990 the New Democrats warned the government that selling AGT was a big mistake, that it would lead to higher monthly rates for residential and small business telephone users, that massive layoffs of workers would occur, and as well we'd get poorer telephone service in rural Alberta. In less than three years all of these things have come to pass. This sale was probably the first time in history that a government privatized a profitable telephone utility and managed to lose money in the process. Can the minister tell Albertans why it's fair that senior Telus executives pay themselves a \$1.6 million bonus while at the same time laying off over 1,200 workers?

MR. SPARROW: Mr. Speaker, this province should be very, very proud of the telephone system it has with individual line service throughout the province. If that service is going to continue to be one of the best in Canada, the decision to privatize AGT was very definitely the way to go. This is a private company that trades on the Alberta Stock Exchange and is owned by Albertans and others. Yes. We do not control any private corporation in this province. It is not the policy of this government to control the private sector but to be here to facilitate them and to create jobs and wealth into the future.

MR. McEACHERN: Mr. Speaker, the taxpayers of Alberta paid for the individual line service that he mentions.

This Conservative government can't so easily wash its hands of the situation. You still have a special share in Telus Corporation which allows you to appoint people to the board. So given that AGT is closing so many of its rural offices, how can the government justify letting rural Alberta communities bear the brunt of the job losses?

MR. SPARROW: Mr. Speaker, I think the member opposite should take a lesson in economics. In order for any company to be successful, it has to really look at, and many, many companies have, their costs of operations. They must keep their costs of operations in line with their revenue. Now, you can't have it both ways. You can't have low rates and very high costs in any operation. It's one of the reasons why we're looking at the downsizing of this government. We have to get our costs under control also.

MR. SPEAKER: Edmonton-Calder, followed by the Member for Three Hills.

Foster Children

MS MJOLSNESS: Thank you, Mr. Speaker. Although Family and Social Services is developing a new foster care model, the foster care system in this province is in a crisis. The Ombudsman's investigation into foster care, released last week, contains

26 strong recommendations to improve the system. Now, given that concern was raised in the report over such things as criteria for approving foster families, assessment of a foster home, inappropriate placement of these vulnerable children, and heavy caseloads for social workers, I'd like to ask the minister: will the minister agree to now implement the 26 recommendations of this report?

MR. CARDINAL: Mr. Speaker, a lot of these recommendations have already been implemented, and the balance will be implemented in a reasonable time.

MS MJOLSNESS: Well, Mr. Speaker, we've heard that one before, and a lot of times they don't get implemented. I'd like to ask the minister, then, if he would be prepared to specifically state which recommendations in the report have already been implemented and which ones he plans to implement and give us a time line on those recommendations?

MR. CARDINAL: Mr. Speaker, I can provide the member in writing the recommendations on the Ombudsman's report immediately.

MR. SPEAKER: Three Hills.

MLA Pensions

(continued)

MR. MacDONALD: Thank you. Mr. Speaker, in December of 1991 the current minister of finance, then the Education minister, wrote to the president of the Alberta Teachers' Association asking her and her union to show a co-operative spirit in reforming their pension plan by scaling it back for those presently working. Will the Premier give us a date when he will write a similar letter to his retiring colleagues and demand that they show the same co-operative spirit and restructure their pension plans today?

MR. KLEIN: Well, I can only point out again, Mr. Speaker, that legislation will be coming before this Assembly in due course to deal with the whole issue of pension plans. I provided the answer to the hon. Leader of the Opposition. If the Member for Three Hills wasn't listening, that's his fault; not mine. We're going to deal with this issue in a very responsible, straightforward, and honest way, which is a lot more than I can say for these guys over there.

MR. MacDONALD: Mr. Speaker, I think that what the people of Alberta want is that same sense of co-operation. This is a double standard: there's one standard for retiring MLAs, and there's another for the working people of the province. So to the Premier: how can this government ask the teachers to make sacrifices and not ask retiring MLAs to make the same sacrifices?

MR. KLEIN: Well, I believe, Mr. Speaker, that we have addressed the teachers' pension plan in a very responsible, fair, and straightforward way.

Mr. Speaker, I have to reiterate that what they're talking about here again is a shell game, this issue of retroactivity. This fellow knows it; his leader knows it. I'm sure they've had this discussion in their caucus. Any member – and again I say: any Liberal member – who has something taken away in this Legislature knows darn well that they will get it back through the courts. The hon. member knows that too. So I would suggest that this member do as I've suggested the hon. Leader of the Opposition do; that is, start to tell the truth about this issue.

Canadian Airlines International

MRS. B. LAING: Mr. Speaker, my question is for the Provincial Treasurer. Mr. Treasurer, some of my constituents are concerned about the decision handed down in the Gemini case today, which seemed to go against PW and Canadian Airlines. What step is the Provincial Treasurer taking to support the airline?

MR. DINNING: Well, Mr. Speaker, in a most unusual ruling today by the Competition Tribunal the tribunal found that it had no jurisdiction to rule on this matter but then went on to rule on it in the event that there might be an appeal. The bottom line was that the tribunal was concerned that Canadian would fail and that that would not provide adequate competition in the airline industry in this province and in effect invited an appeal, and I believe that that is what is going to happen.

Mr. Speaker, the province, provincial taxpayers, Albertans support this airline. There is a guarantee in place. It has not been called upon, as was expected, because the airline has found itself operating and running a far more efficient company than it ever, ever expected. A lot of the credit for that efficiency in the operation goes to the hardworking, professional employees of that airline company. I know that all members of this Assembly are supportive and this government is supportive of that Canadian airline company, and we want to ensure that it is a strong, viable company today and in the future.

3:20

MRS. B. LAING: Mr. Speaker, my supplementary question is again to the Provincial Treasurer. Mr. Minister, to alleviate the concerns of my constituents and indeed the members of this Assembly, would the minister please assure this Assembly that the government's support for the airlines will remain in place?

MR. DINNING: Mr. Speaker, most assuredly so. I'm advised by senior officers of Pacific Western Airlines today that they will be appealing the tribunal's decision. It will go to the Federal Court of Canada. Let it be clear that this government does support Canadian Airlines. It does support Canadian Airlines employees. We have a guarantee in place to show that Albertans support, in fact, both Canadian Airlines and Air Canada, because we need both of them as two vitally important airlines in this country. It's important for competition, which is important for the airline traveler. So most assuredly is this government supportive of Canadian Airlines.

MR. SPEAKER: Edmonton-Avonmore, followed by Edmonton-Gold Bar.

Advisory Council on Women's Issues

MS M. LAING: Thank you, Mr. Speaker. In response to my questions of February 5, 1993, the minister responsible for the Advisory Council on Women's Issues stated that she was dealing with filling vacancies on the council, including the chair, which has been vacant since June 1, 1992. Yet not only is the chair still vacant, but as of May 15 eight of the total 15 positions will be vacant, and the council will be rendered entirely ineffective as it will no longer be able to reach quorum. To the minister responsible for the advisory council: will the minister now assure us of her commitment to the continuation of the advisory council by providing an update on her efforts to fill the vacancies on the council?

MRS. MIROSH: Well, Mr. Speaker, the chair has been vacant, but this is not a volunteer position. This is a paid position. The Premier has announced on numerous occasions that there is a hiring freeze. It is my intention to continue to work with the women's advisory council. They have done exceptionally good work, and the people there are fulfilling the needs currently. There is still time to fill the remaining vacancies when that date occurs, which is still over a month away.

MS M. LAING: Well, Mr. Speaker, the minister uses a so-called freeze on boards and commissions as an excuse for vacancies on the council. Yet on March 11, 1993, she appointed a new commissioner to the Human Rights Commission, a paid position, at the deputy minister level to boot. One finds it hard to reconcile her willingness to act on the Human Rights Commission with her failure to act on the advisory council unless the Human Rights Commission appointment was a job creation initiative for a displaced civil servant.

Will the minister now put to rest any concerns that the advisory council will be amalgamated with other boards and commissions by immediately appointing to the advisory council strong women advocates?

MRS. MIROSH: Mr. Speaker, there are about three questions there, and I'll proceed to answer the question with regards to the Human Rights Commission. It is important . . . [interjections]

MR. SPEAKER: Order.

MS M. LAING: It was a statement of fact.

MR. SPEAKER: Order.

MRS. MIROSH: It is a statement of fact that the chief commissioner of the Human Rights Commission has been appointed to do a review for 18 months.

The issue with regards to the women's advisory council is ongoing, and I am continuing to work with the advisory council. There are a number of other committees that are doing the same work, and we're examining streamlining the process. One of the priorities of this government with that streamlining is to deal with family violence and violence against women. There are a number of committees that are working on that, and they are all doing an excellent job.

MR. SPEAKER: Edmonton-Gold Bar.

CASA Centre

MRS. HEWES: Thank you, Mr. Speaker. For years mental health services for adolescent children have been woefully inadequate, leaving children and their families at risk. Despite the investigation into the very troubling circumstances at CASA house – that's one of the very few providers that we have in Alberta – serious problems and questions continue. Parents of these children are frightened. They believe their children are not getting the clinical care they need, and they have not been able to get any answers from the government. My question is to the Minister of Health. The Department of Health has been telling parents that they're monitoring this volatile situation at CASA, but frankly that's not good enough. Are these children getting the clinical treatment they need?

MRS. McCLELLAN: Well, Mr. Speaker, CASA house is a very important treatment program, and certainly the treatment of adolescents in this area is very sensitive. I would simply say to the hon. member that I have met and have had my officials meet on this issue, and I would be pleased to discuss that with her.

MRS. HEWES: Mr. Speaker, my supplementary is to the Minister of Family and Social Services. A number of the children in this institution are wards of the province. They are legally the minister's children. I'd like the minister to tell us whether or not he has discussed the matter with the Children's Advocate and if he is satisfied that the proper actions are being taken to implement the recommendations.

MR. CARDINAL: Mr. Speaker, I can advise the hon. member that I have discussed this issue, and I will continue discussing the issue to make sure that the children are protected the way they should be.

MR. SPEAKER: Calgary-McKnight.

Tolerance and Understanding

MRS. GAGNON: Thank you, Mr. Speaker. In 1972, Premier Peter Lougheed introduced the Individual's Rights Protection Act to this Legislature. I quote:

It is a bill which deals with the concerns of that intangible factor, namely the individual's relationship with other individuals, so that we may all live in harmony and balance guided by fairness, reasonableness, and equal opportunity.

That Mr. Lougheed's vision of a tolerant Alberta has not come to pass is evident by a recent Alberta Education survey of grade 8 and grade 11 students which revealed that many Alberta students hold intolerant attitudes toward members of ethnic groups, people with disabilities, religious groups, and senior citizens. It is a well-known fact that students pick up such attitudes at home and in their communities. My question is to the minister responsible for citizenship and the Human Rights Commission. Rather than exacerbate the situation, what steps will the minister take to promote tolerant attitudes amongst Albertans?

MRS. MIROSH: Mr. Speaker, that particular survey was done through the Department of Education, and the Minister of Education should answer that question with regard to that survey.

MR. JONSON: I've read the survey that the hon. member refers to from cover to cover, and I have to say, Mr. Speaker, that I do not share what seems to be a negative attitude towards those findings. Those findings are in general very positive with respect to the grade 8 and grade 11 students in the province that were surveyed. Overall I think that this survey provides a good baseline, a set of statistics and information from which we can look at improving those few areas where there is a deficiency in terms of this particular survey.

MRS. GAGNON: Mr. Speaker, the recommendations in the report indicate otherwise.

My second question is to the minister in her capacity as minister responsible for women's issues. The survey also revealed that female students reported a lower sense of self-esteem than their male classmates. Does the minister consider this to be a serious problem worthy of being addressed by her department?

MRS. MIROSH: Yes, I do, Mr. Speaker.

MR. SPEAKER: The Member for Highwood.

Highway 2

MR. TANNAS: Thank you, Mr. Speaker. My question today is for the Minister of Transportation and Utilities. There have been various accounts and stories pertaining to the Alberta export highway to the United States. Would the minister share with the Assembly the finance and construction details of the recent federal/provincial agreement regarding twinning Highway 2 from Calgary through to the Montana border?

MR. TRYNCHY: Mr. Speaker, we did arrive at an important agreement on March 18 and 19, and in that agreement we were able to set up a program of \$30 million from the federal government and \$30 million from the provincial government to upgrade our national highway system, highways 1, 2, 3, and 16. This is a program that will provide over a thousand jobs during its course and will do some four-laning between Calgary and the U.S. border.

3:30

MR. TANNAS: Mr. Speaker, my supplementary question is again to the Minister of Transportation and Utilities. I'd like to know what action is being taken to upgrade the old undivided four-lane portion of Highway 2 south of Calgary between the Okotoks turnoff and the junction with Highway 23 east of High River.

MR. TRYNCHY: Mr. Speaker, that is a concern that I will be addressing. The twinning of that section is now being studied by the department. We'll be doing some preliminary surveys to find out how we can do it, and as soon as we have those details in place, I'll get back to the member to let him know when, and when we can do it.

MR. SPEAKER: During question period the Chair received notice of three points of order, and they will be taken in this order: Edmonton-Meadowlark, Westlock-Sturgeon, and the Provincial Treasurer.

MR. KOWALSKI: Mr. Speaker, I also rise on a point of order.

MR. SPEAKER: Thank you.

Point of Order Explanation of Speaker's Ruling

MR. SPEAKER: Edmonton-Meadowlark.

MR. MITCHELL: Mr. Speaker, thank you. I rise under *Beauchesne* sections 409, 410, and 411 in response to your decision during question period to rule my questions out of order. I would like to begin by pointing out that while we had heard that there was a notice of privilege given, no detail of its substance was provided to the Legislature, and therefore I had no way of knowing, in fact, whether there might be in some sense a conflict between what I was to ask and what that privilege issue might address.

Having said that, Mr. Speaker, I am not aware of any rule in particular which would prohibit me from raising a question in an area that might be addressed by a pending point of privilege.

Having said that, Mr. Speaker, I was not unaware of the sensitivity of this situation, so I was careful in designing my questions not to address the specific case which the Member for Camrose may be raising in his point of privilege but rather to

address this matter at a general level. My questions addressed the issue of what the Premier thought about politicians in his caucus undertaking to influence the courts in sentencing procedures and what the Premier would think about members of his caucus sending a message to Albertans that there should be leniency recommended in the sentencing of convicted sex offenders. I believe that quite apart from the specific case that may or may not be raised by the Member for Camrose later on today, these are important policy issues, these are important ethical issues that have a general significance for Members of this Legislative Assembly. What I would like to emphasize and I think is important to emphasize is that the Premier shirked his responsibility to make a statement about that issue, and he did not get the opportunity to do that . . .

Speaker's Ruling Relevance

MR. SPEAKER: Order, hon. member. Order. The Chair is prepared to listen to a point of order. The Chair is not prepared to entertain your comments about your opinion about what someone should or should not have done had the question been capable of being answered at that particular time.

Point of Order Explanation of Speaker's Ruling

MR. SPEAKER: Do you have any concluding comments on the point of order?

MR. MITCHELL: Well, my point of order, Mr. Speaker, is that there's no reason why I should have been ruled out of order, and I defend my right to ask that particular question. The issue stands: when will the Premier provide some leadership to the members of his caucus on this?

MR. SPEAKER: Thank you, hon. member. [interjections] Perhaps the sound system is not working in that corner of the room to enable you to hear.

On the point of order, the Government House Leader.

MR. KOWALSKI: Mr. Speaker, we're on the point of order raised by the member just before?

I think one should take a look at *Beauchesne*. I look at the rules with respect to the principles of parliamentary law. I would like to point out that it is important that all members in fact look at citation 71(1), which is probably the more important one for the benefit of the Leader of Her Majesty's Official Opposition. It should be read, I would sincerely hope, by all members of the House on occasion. Quite clearly you will rule, Mr. Speaker, with respect to this point of order, but in my understanding and from what I've heard from the hon. Member for Edmonton-Meadowlark, in fact there was no point of order raised, but there was an imputing of motives directed to the leader of the government. That is a matter that in fact should not be dealt with lightly. In all likelihood as you do rule the hon. member out of order, perhaps the hon. member would have enough decency in his own little body to stand up and apologize to the leader of the government for this imputation of motives. [interjections]

Speaker's Ruling Decorum

MR. SPEAKER: Well, first, hon. members, there's an admonition or a sharing of our understanding of Standing Orders of the whole House. In many respects this is a continuation of what was going

on yesterday in question period, and this has to cease. Granted that it's springtime and all of us are keen to be out of here doing other things. Perhaps some of you are even keen to go off to do an election. Nevertheless, while we're still here in this parliament, we're going to behave as parliamentarians. This is not the political hustings of the province.

First off, Standing Order 13: "Mr. Speaker shall preserve order and decorum and shall decide questions of order," even including points of order. But the other thing is: under Standing Order 13(4), "When a member is speaking, no person shall interrupt that member, except to raise a point of order." Now, while there's a certain amount of latitude during question period of this bickering back and forth or making constructive or even mirthful comments, that's one thing, but this business of hectoring people – you've asked your question and then you start shouting at government benches before the minister can even open his or her mouth – is really just plain rude.

MR. TAYLOR: What's that got to do with the point of order?

MR. SPEAKER: It's plain rude.

Westlock-Sturgeon, if you would pay attention, you would understand what's happening here.

MR. TAYLOR: This has nothing to do with the point of order.

MR. SPEAKER: Order please. The Speaker has the right to speak to the House on matters that are regarded as points of order, and this is the introduction. You are one of the major offenders in this regard.

MR. TAYLOR: You're hurting my feelings.

MR. SPEAKER: I doubt that somehow.

As I was going on before I was so rudely interrupted by Westlock-Sturgeon, while there's a certain amount of latitude during question period, when the House is then attempting to deal with points of order or points of privilege, there is absolutely no excuse for this banter back and forth. So when the Government House Leader was speaking, there was no need for this kind of hassling that was going on.

Point of Order Explanation of Speaker's Ruling

MR. SPEAKER: Now, with respect to the purported point of order by the Member for Edmonton-Meadowlark, there are a number of interesting wrinkles in this regard. I appreciate the fact that an attempt was made to quote *Beauchesne* 409, 410, and 411. Certainly with respect to 410 the Chair would also like to reiterate subsection 14, because the Chair at a quick glance could not find anything that was relevant to the quoting of 409. However, in 410(14), "Questions should not anticipate an Order of the Day." Because two notices were given, the Chair could leave it as an open question as to whether or not other members of the Liberal caucus received the copy of the notice that was delivered to the Member for Calgary-Buffalo's office. The Chair must assume that that did take place. The notice that was given by the Member for Camrose to the Speaker's office arrived at 12:25, I think, and my copy of that notice shows that a copy was delivered to the Member for Calgary-Buffalo.

When the House convened this afternoon, notice was given by the Member for Camrose that a point of privilege was going to be raised. That should be sufficient notice to all members of the

House, given the events of yesterday, that that member was going to raise an issue with respect to what occurred in question period yesterday. That then meant that this matter was going to be dealt with today had both members been present in the House when we came to this stage of the afternoon. That then meant that the matter was going to be discussed this afternoon as far as the Chair could anticipate. In actual fact it may well be that the Member for Calgary-Buffalo arrives before we get through all these points of order. Nevertheless, because notice was given about a purported point of privilege, that's why your question was ruled out of order: so that questioning and answering today would not further muddy the waters with respect to what the purported point of privilege is about.

3:40

As the Member for Edmonton-Meadowlark well knows, this kind of a challenge with regard to privilege is indeed the most serious thing that this House can deal with. The Chair listened attentively to the whole question to see if that was going to be the preamble and then a question would go down a different road, and it was then that the Chair intervened and would not allowed the question to be answered. It's on that basis that your question was then taken away, and we moved on to the next person on the Order Paper.

Now, the Chair anticipates that perhaps the Member for Calgary-Buffalo will yet arrive in time. Failing that, then the matter will be held over until tomorrow, but be assured that that matter will not be a subject of question period.

Point of Order Parliamentary Language

MR. SPEAKER: The second purported point of order, the Member for Westlock-Sturgeon.

MR. TAYLOR: Thank you, Mr. Speaker. Mine is a small one compared to what you've been discussing, but it had to do with that comment you made when I heckled the hon. Minister of Justice when he was answering a question from the Member for Olds-Didsbury asking about the love affair or the maybe strained relationship that was occurring between the minister and the police force. The minister was just tuning up when I yelled something across to him about Mr. Frog. Well, it is well known that the gentleman resembles that amphibian when he gets under way and the deep bass notes come out. The fact that it was Mr. Frog rather than Mr. Bullfrog was just to be politically correct and try to make it as nonsexist as possible. It was not at all what you seemed to be thinking it might be when you said you were going to refer to the Blues.

MR. SPEAKER: Well, hon. member, the Chair said that the Chair would check the Blues to see what indeed was picked up by the microphones, and the Chair in a spirit of conviviality trusts that the phrase, if it was recorded, was indeed k-i-s-s-i-n-g match.

As to the member's comparisons in the last few moments, I don't think that's really so great a comparison.

Point of Order Tabling Documents

MR. DINNING: Mr. Speaker, under Standing Order 23(l) I rise in regards to a document that the Leader of the Opposition tabled in the Assembly today. I rise only because of a rather questionable practice of using correspondence between two professional public servants to make an argument that has absolutely nothing

to do with the argument that he's making. The hon. member was talking about MLA pensions, and the matter that is raised is related to the local authorities pension plan. All the hon. member does is draw these two hardworking professional civil servants into his little web. That I think does an injustice to members of our public service. [interjections]

MR. SPEAKER: Just half a moment, please. The Chair will recognize the Leader of the Opposition next, but the Chair would like to invite the Clerk to bring a copy of the letter up here, please.

MR. MARTIN: Well, Mr. Speaker, this is hardly a point of order. We're talking about the principles of what can be done in this Legislature. If the member would read the document, he would see that there's a number of things it talks about that are totally relevant to all pensions and totally supports the argument that we're making. He may not like that argument, but it's hardly a point of order. We've made the argument; we will continue to make it in the political sense. That's where the battle will be fought. I don't know why he's wasting the time of the Legislature by bringing it up.

MR. BRUSEKER: Mr. Speaker, just citing from *Beauchesne* 435(2), page 127, it allows very clearly that, quote, papers may be laid before the House voluntarily under, and then it quotes a particular Standing Order. Yesterday we had the scene where the Premier was indignant that the paper wasn't produced quickly enough. Here we have a member who produces the paper, and now we get the government still arguing about it. Which way do they want it? One time we see a flip, and now we see the biggest flop around.

MR. SPEAKER: Hon. Member for Calgary-North West, it's interesting. I apologize for the delay, but since you were kind enough to cite *Beauchesne* 435(2), it says, "Papers [are] laid before the House voluntarily under Standing Order 32(2)." So if we look at 32(2), it says: a report or paper deposited by a minister or parliamentary secretary. I really don't think the Leader of the Opposition wants to be referred to as "a minister or parliamentary secretary," at least not till after the election. So with due respect, hon. member, your citation is entirely out of order.

The concern of the Chair is that the letter that was deposited is from the department of the Attorney General and is clearly marked "private and confidential." The Chair does have concerns about how private and confidential material arrives. The tradition of the House has been that when we're publishing letters, the people who write them and sign them give their permission. I think that what we have here is indeed a tabling; it has taken place. I let the House and the general public be the judges of whether it's appropriate or not, but nevertheless it's here. It's now a document of the Assembly in spite of being marked "private and confidential."

One other issue, hon. members, is that this business of suddenly flipping correspondence into the House during question period leaves much to be desired, because how can anyone respond? The Chair has to at least look at some of these documents to see whether or not they are indeed true copies.

Thank you.

Point of Order Privilege

MR. KOWALSKI: Mr. Speaker, I wish to rise on a point of order, and I wish to use as the basis for the point of order

Beauchesne 1, dealing with principles of parliamentary law. I wish as well to refer to Standing Orders, particularly 15(4).

Yesterday in this Assembly the Member for Calgary-Buffalo raised questions and there were certain suggestions or innuendos made with respect to purported conduct by the Member for Camrose.

3:50

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

Speaker's Ruling Points of Order

MR. SPEAKER: No. I'm sorry, hon. member. You cannot have a point of order on a point of order. [interjections] Order. Take your place, hon. member. Order. [interjections] Order.

Point of Order Privilege

MR. SPEAKER: The Chair itself is concerned about comments that may or may not relate with respect to a purported point of privilege, but the Chair is still willing to listen to another few sentences before the Chair will intervene with respect to the point of order being raised by the leader of the government caucus.

MR. KOWALSKI: Mr. Speaker, under 15(4), and I wish to quote it, sir:

If the member whose conduct is called in question is not present, the matter shall be deferred to the next day that he is present unless Mr. Speaker rules that, in the circumstances, the matter may be dealt with in his absence.

Now, certain suggestions were made by the Member for Calgary-Buffalo yesterday. The Member for Camrose, as I understand in hearing what the Speaker said in the last few minutes, conveyed his desire to stand and raise a point of privilege on this day. As I understand, sir, he in essence is prepared to do such. Now, these are unusual circumstances; these are particular circumstances which call into question the conveyances of the member and his conduct as an individual in this society and as a member of this Assembly.

Speaker's Ruling Anticipation

MR. SPEAKER: Forgive me, hon. member. We have not yet reached the stage for the purported point of privilege, and to go further is anticipating what may or may not occur should the Member for Camrose rise. We're not into that point where the Chair is going to make a decision whether the full case will be heard today or not. Forgive me.

Privilege Reflections on a Member

MR. SPEAKER: The Chair recognizes the Member for Camrose.

MR. ROSTAD: Well, Mr. Speaker, sitting here over the past seven years it's actually with a great deal of regret that I've seen from time to time a point of privilege raised. I never thought and frankly don't relish the experience of raising one, but I do rise to raise a point of privilege under Standing Order 15.

I believe that my rights as a member of the Assembly were breached during question period on Wednesday, April 21, when the Member for Calgary-Buffalo in both his main and supplementary questions implied both false and unavowed motives in that I was attempting to influence a judge. Subsequent to that, I submit

that my ability to perform my duties as a member of the Assembly and to my constituency have been seriously impaired.

I am prepared to make my presentation today if that is your ruling, and I await your ruling.

Thank you.

MR. SPEAKER: Thank you, hon. member. Indeed, as one reads further the Standing Order with respect to privilege, the Chair will not hear any further discussion on the matter today. The Chair had received a note from the House leader for the Liberal caucus and is given to understand that the member who raised the matter in question period yesterday should be in the House tomorrow. I hope that the Member for Camrose will also be able to be in the House tomorrow. Thank you. In that regard, unless I hear any discussion otherwise, that's the ruling.

Speaker's Ruling Points of Order

MR. SPEAKER: Hon. members, for clarification the Chair would also like to point out, reading from *Beauchesne*, that under 318, "A point of order cannot be raised on a point of order." Just to remind all of us in this House, whether we be lawyers or not.

head: **Orders of the Day**

head: **Written Questions**

MR. DAY: Mr. Speaker, I move that the written questions on today's Order Paper stand and retain their places with the exception of the following written questions: 291, 383, and 384.

[Motion carried]

Peat Marwick Thorne Inc.

291. Mr. Bruseker asked the government the following question: What are the purpose, terms, and conditions of the \$2,500,000 Crown guarantee advanced to Peat Marwick Thorne Inc. for the year ended March 31, 1990?

MR. DAY: Mr. Speaker, the government will accept Question 291.

Highway 651

383. Mr. Taylor asked the government the following question: What would be the estimated total cost to the government of Alberta and the municipal district of Sturgeon of realigning secondary highway 651 through Lily Lake or on a new route around Lily Lake?

MR. DAY: Mr. Speaker, the government rejects Question 383.

Daishowa Pulp Mill

384. Mr. Mitchell asked the government the following question: How much money has the government of Alberta spent on:

- (1) the construction of the spur railway line from Peace River to the pulp mill operated by Daishowa Canada Co. Ltd. and
- (2) the maintenance of that line from the time of its completion until March 31, 1992?

MR. DAY: Mr. Speaker, the government accepts Question 384.

head: **Motions for Returns**

MR. DAY: Well, Mr. Speaker, given the time that's been taken up by members of the opposition, I think with government members' motions coming up, I would like to move that the motions for returns on today's Order Paper stand and retain their places.

[Motion carried]

head: **Motions Other than Government Motions**

Surface Rights

231. Moved by Mr. Zarusky:

Be it resolved that the Legislative Assembly urge the government to introduce amendments to the Surface Rights Act to ensure that compensation payments run with ownership of the land.

MR. ZARUSKY: Mr. Speaker, it's again a pleasure to stand before the Assembly to debate an important matter in regards to rural Albertans, and that's surface rights. As we all know, this issue has come up before the House on numerous occasions and itself is an indication that it is a pressing matter that this must be resolved. Such amendments would see that the current owner of land receives surface rights payments, and that's compensating for disruptive activities on their land. This seems reasonable, and I think it's reasonable and long-awaited legislation that should have been passed. Being myself a member from rural Alberta and living on a farm and being involved in it, I know the importance of surface rights staying with the title.

[Mr. Main in the Chair]

As we go on, I think surface rights payments are intended – and I think the word “intended” is important – to compensate landowners for the inconvenience and costs that the person incurs due to disruptive activity on his or her land. This may happen with power lines, pipelines, oil wells, roads, and pumps: whatever happens in an area, which does happen right throughout this province because of our rich natural resources.

I think, Mr. Speaker, where this all came from was my area of Redwater-Andrew. Everyone knows that Redwater was probably one of the first oil fields, gas fields in the province of Alberta and has supplied a lot of energy to the province and the rest of the world. It stems back to the ownership of people since probably the 1940s and on. As we all know, as time goes on, properties do change hands. Other people purchase them or rent them, or they're passed on either from one family member to another or from one generation to another. Some of these things are maybe overlooked in a title when compensation payments or when the transfer of title is happening. In a free enterprise, democratic system I think this system can work and all parties involved probably can be content, but there is much more complexity because oil companies, power companies, and others get involved. I think there is a lot of respectable business going on. Everybody wants to do business in a respectable and honourable way, but these disruptions sometimes do occur.

4:00

I guess there's another face to this coin. There are times when a farmer is indeed not receiving compensation for an oil company's activities. When he's not receiving these compensations for energy-or power-related activities, he still has to continue to

farm around these obstacles and indeed can lose some money doing it due to land being taken out of production and the fuel costs of going around these inconveniences. Also, there is waste. Take an example: when you are seeding and you've got to keep going around obstacles, naturally more seed grain is used and more fertilizer is used also, which is, as any farmer would know, very costly at this time. You've got to be careful in this day and age in the business of farming that you save every cent you can on the input costs of producing grain.

Mr. Speaker, the Alberta Surface Rights Act does not stipulate that compensation payments run with the ownership of the land. In fact, in Alberta you can have a split title; that means one party taking ownership of the land and another party keeping ownership of the surface rights. If you look at it, as the payment is intended to compensate the person who actually makes his or her living off the land, it does make sense, but this practice distorts the very idea and the philosophy behind compensation payment. This is even more alarming when one considers that the Alberta Surface Rights Board suggests that approximately 20 to 30 percent of the time a former landowner will retain the compensation payment. Each year this situation gets worse, and I think this is the year, 1993, that this should maybe stop.

Mr. Speaker, that a problem does exist is very easily documented. One only has to take a look at the minutes of the Alberta select committee on surface rights which was created in 1980 by this government to realize that these concerns are disturbingly common. An example we can use is that the issue of compensation not running with the ownership was referred to no less than 51 times during the meetings held by the committee. In almost all instances there was support for the exact sentiment that is expressed in this motion that we are debating here today. Obviously the cynic will say that these are simply examples of farmers complaining about their own individual circumstances. I don't think that's true, because in fact an executive from Esso Resources also appeared before the committee and was asked by people on the board: should this stay with the land title? His answer was: it would be the second-best thing since sliced bread. This is an oil industry executive with extensive experience in land matters stating that compensation should run with the land. There were many other people that met with the committee on land resources. These people did indicate that it could be a dangerous situation, and I think there are many good arguments for the landowner to go to the oil company and say, “Where is the rental for the well on my land?” which can result, obviously, in court action. When it gets this far, it is in nobody's best interests.

So as we had the hearings throughout the province by a select committee of this government, testaments from all various stakeholders were drawn to the committee's attention. I want to state today some of the conclusions that are very relevant for today's debate. This comes from the committee that went around the province. [interjection] Hon. member, you'll have an opportunity to ask when you get into the debate.

The committee indicated that landowners who have a well site development or a pipeline development on their land should be the ones who receive compensation for these leases, and the committee did not believe that those leases should be assigned to other people. So you can see the committee's recommendation in there, and for some reason it did not get into legislation. Whether it was discussed and amended, I don't know, but I think this is one area that should be looked at as we go through this debate on surface rights.

For those who state that such legislation is a violation of the contractual rights of individuals, the committee's reply was that these situations can devolve into incidents such as the one instance

where compensation had actually been willed to a public institute. If that is not the absolute distortion of intent, I don't know what could be at this point. You can see, as I indicated before, how these titles do change hands and compensation for well sites or others seem to stay in another. It's not a violation of contract or property rights, I think. Mr. Speaker, I do not discount the validity of the argument that such legislation violates the ability of individuals to enter into a contract free of constraints. In fact, I fully support a free and open marketplace, and that is very essential I think to our province, as probably some of the arguments will be.

However, even in Alberta individuals are not entirely free to enter into a contract. There are numerous examples of government involvement in the private sector and business, and this is not necessarily wrong. We're surrounded by many of these instances in the marketplace. Some of the examples, again, could be individuals not willingly entering into contracts. We have in agriculture things like the Barley Commission, the canola commission, sheep and wool commissions, and Cattle Commission, where all members are within these guidelines of the commissions. There have been some legislative changes already, where it's a willing and free way of entering into these, but we still have some commissions where all farmers are obligated to be in.

Mr. Speaker, I think I can give you countless examples where government legislation still protects the consumer. In fact, the Alberta government has always been squarely in the corner of the consumer. I don't see people objecting to legislation which protects the consumer from being taken advantage of in the marketplace. Why this same philosophy can't extend to something as significant as compensation payments to farmers I think in this day and age is difficult to understand. As I said, we still can have this free and open marketplace, but taking the legislation out and saying that one can go another way and one this way certainly doesn't work in some instances. There are obstacles to this.

4:10

I think when it comes to compensation for surface rights, the money should stay with the original owner because he, as I said, is the person that indeed can use the money on his farm. You take a young farmer, for example, purchasing a quarter of land and not being able to afford to buy the surface rights because of them having a value. He suddenly gets penalized, because these surface rights at times can certainly help this individual come through a crunch of low commodity prices or maybe some disaster, weather related or other, that hurt the crops or the farming operation. These compensations help many of these people get through some of the tougher times, and I think it's important that this be recognized and that these people that need it be given that opportunity to receive this money.

Mr. Speaker, I can tell you that if the surface rights go different from the title of the land, many times that money can end up in another country with individuals that can really get by without it; I'm sure it's not spent in this province, where it could keep the economy going, keep a local area going, and keep local businesses going. That is another point: I think that many times, as I said, we see this money even leaving the country.

Mr. Speaker, I think also, to add to this debate, that support for surface rights or compensation to the present owner is supported by the industry because I think the industry would rather deal with one individual than with two or three people not even living in this country, where at times they have to get in contact with them and send the contracts out and sometimes maybe even try to find heirs or descendants of the family which it belongs to. Again, when an oil company or power company gets on this land where the surface

rights aren't with the owner, it can create a lot of conflict by arguments or damage being done and the owner not really being in favour of this. I know that oil and utilities companies certainly do support the surface rights portion going with the title and staying with one owner.

I think it might be a little difficult to do this right from the start. It might create some problems, but as you work through it and make people aware that this is happening, and realtors and lawyers and others work along and work in co-operation with changing this, it definitely would help our landowners, particularly in areas where a lot of resources are mined or extracted or services through power are spread throughout the province. It would be a benefit.

Mr. Speaker, I just want to touch on a few other areas in the country that have had the same problems and what other jurisdictions are doing. I know in fact that other provinces experienced the same difficulties regarding compensation payments. I guess many had the same problem and indeed have changed it. One province that has taken steps at this time to ensure fairness is Manitoba. I'm sure many of you remember from our debate in 1990 that the Manitoba Surface Rights Act has a clause, which is section 62, stipulating that

Agreements respecting surface rights entered into between an operator and an owner or occupant shall run with the land and shall enure to the benefit of and be binding upon the successors in title or interest of the owner or occupant, as the case may be.

Fairness in the system protects trusting farmers who sometimes wrongly assume that they will be treated in a just manner during sometimes complicated transactions.

Amending the Surface Rights Act to ensure that compensation runs with land ownership will create a better working relationship between farmers and industry, and it will eliminate confusion during the buying and selling of land and will ensure that compensation goes to the rightful and intended party, and that's the person who owns the land.

Mr. Speaker, this is the reason that I urge the members of the Assembly to support Motion 231. When I say, "support it" I think - as a government, as we're going through many changes in government and in the economy and the way our province is going - now is the time to do it. Once again, I urge all members to support Motion 231.

MR. ACTING DEPUTY SPEAKER: The Member for Calgary-Forest Lawn.

MR. PASHAK: Thank you, Mr. Speaker. Well, I think that this is a good motion; I think that I could support it. I have a question to the member that just introduced the motion. Perhaps he could try to answer it when he makes his concluding remarks. I'd like to know a little bit more about the history of this. How is it that compensation for this disturbance of land could be separated from the person who's actually using the land? How is it that it came about that somebody else could have title to the surface rights in this sense? It seems to me that that's unreasonable and unfair. I don't know just how that situation arose. I don't know how many farmers are in this situation. Maybe Mr. Taylor, if he gets a chance, could explain how this came about. I'd also like to know how many farmers are affected by this, which percentage of people that are obtaining surface rights would be affected by this motion should it be adopted by the Assembly and then approved by the government.

I know that the situation that exists between farmers and the energy industry is often rather difficult and tenuous. The energy industry has no problem paying fair compensation to farmers for the disturbance of the farmers' land, but we're all aware that there

are problems in terms of the way that the Surface Rights Board acts, that it makes decisions that are based on settlements that are made in ways that the energy industry feels are really unfair, particularly that there's a right-of-entry fee that the oil industry must pay. Then beyond that, the Surface Rights Board, when it comes to adjudicating the return that would go to a farmer, seems to do this on the basis of what the highest rate of return is in the immediate area in which a well is being located. The situation of unfairness is created because one farmer may be stubborn and hold out, and another big company can go in and say, "Well, we can't afford to play around," and they pay the farmer a higher rate of compensation. That tends to drive up the compensation that's paid.

Now, I tried to get a little bit of information about this from one of the oil industry spokespeople. He told me that it often can cost an oil company as much as \$6,000 in the first year to work a five-acre well site, and then in subsequent years it can cost the oil company as much as \$2,000 a year in ongoing payments to the farmer. Now, maybe that's reasonable. I don't know what the loss of income would be to the farmer who's farming five acres of land. I don't know whether that's an unreasonable or overly reasonable compensation. I'd like to hear some information from the member on that.

I'd just like to say that at this point in Alberta's history most of the big, so-called elephant pools have been discovered and developed. The majors at this particular point in time are backing out of their development activity and this sort of thing. They're spinning off a lot of properties to smaller oil companies, and that's where the big action is in the oil industry today. In order to do their drilling work, a lot of these small companies are operating in many cases on a limited sort of budget, so these compensations become an increasingly important factor in their operations.

I would appreciate it if the member who introduced this Bill might be prepared to comment on some of these issues during the course of the debate.

Thank you, Mr. Speaker.

4:20

MR. ZARUSKY: Mr. Speaker, can I answer these?

MR. ACTING DEPUTY SPEAKER: Well, we'll recognize the Member for Westlock-Sturgeon at this juncture in the debate.

MR. TAYLOR: Thank you, Mr. Speaker. I'd take a moment on the history, if I may inform the Member for Calgary-Forest Lawn a bit. The Redwater area, which was discovered in 1949, is one of our older fields in the province. Leduc was '48, and of course Turner Valley, 1917, Wainwright in the 1920s. So it's not one of the earlier ones, but it was one of the first drilled out.

AN HON. MEMBER: Do you remember all of them?

MR. TAYLOR: I was at them all, yeah.

It was drilled out on 40-acre spacing, which is very rare today. That means that on a quarter section of land you'd have four well sites, or on a full section of land you would have 16 well sites. Therefore, a lot of money goes to the rental of surface installation, more so than for the modern oil field, which says 160, 320, sometimes 640. So there are not as many wells in modern drilling as there were in those days, number one. Therefore, you have quite a little money involved by the time you figure out all these leases involved. In fact, for some of that area out there the return from the well sites is probably more than from farming.

Now, what bothers me about this motion is that you're interfering with a person's right. In some cases here they've retired or they've sold their land, moved down to the States or Arizona, or maybe even given a few leases to the daughter, a few to the son. In other words, the right to receive income from those surface leases was separated from the land. So the person who bought the land didn't get the right to the leases until the leases were abandoned. Now, I suppose you can make a strong argument that the farmer that's now there, that's farming it, that's now bought the land, is suffering a lot of inconvenience moving around amongst these sites, but then you can argue that this is a free country and he or she was a big boy and they bought the land knowing that the wells . . . You know, the wells are sitting there pumping right in front of them. It's a pretty hard thing to miss, a Redwater oil well; it's a big thing with a big horse's head moving. So they should surely have known when they bought the land whether they bought the lease rights with it. Maybe they didn't in the old days, but it's stretching credibility a lot to think that a modern young farmer would buy land and not even check out whether or not he or she is going to get the lease payments.

The other thing to remember here – and I think it bothers me more than anything else, and I know the hon. Member for Redwater-Andrew means well by it – is that we're interfering with the whole system of agricultural leasing of land. For years and years and years, started by our early ranchers, they leased land. Consequently, when an oil company or a power line or a pipeline enters a property, they're supposed to make restitution for the inconvenience of the leaseholder rather than the owner – the owner could be somebody sitting in California or somewhere – if that leaseholder used the land to raise crops. Now, you can see that there's a question of timing. If you come in and lease a farm that's already got 16 wells on it, you can hardly argue that you're suffering, because the lease that you're paying takes into consideration the number of wells that are there. If you're sitting there on a grazing lease like some ranchers are or farming on a lease like some farmers are, paying cash rent, maybe a five-year lease, and an oil company with the order of the government comes in and takes out a couple of leases, you've certainly got a very legitimate claim for costs as a lessee, not as an owner. The oil company can't go around paying both owner and lessee. As a general rule they pay who has control of the surface. If that control of the surface has been passed by the owner knowingly or unknowingly to a lessee, that's who should get paid. Consequently, we run into the problem now that many people are saying that it should go with the owner, but even the Alberta government, even the minister of agriculture, when he goes from one end of this province to the other talking about pay the producer – in other words, do away with the western Canada freight agreement, \$790 million, and pay it to the producer – says it has in it a clause and has for a year or so, differently from the federal government, that money from that should go to the lessee, to the actual farmer of the land, not to the owner of the land, which might be absentee.

Add to this that in western Canada today, in Alberta and Saskatchewan, I believe around 28 percent – it may be closer to one-third – of all land is leased, not owned by the farmer. So what you're saying to a farmer is that if somebody comes in and puts oil, gas, or pipelines, they will get no money if they leased it, but if they own it – and that owner may not live anywhere close, could be in Rocky Mountain House because they have such a wonderful MLA, somewhere way off in some corner of the world where no one would ever think about it; it could be something like that – they would get the money. So I think what we have to be is very, very, careful here, Mr. Speaker, because we're interfering with the rights of ownership.

I can see that injustices have been caused in the past, particularly in the Redwater area because it is such an old field and has so many locations, but we have to look at making a law here for the future too. I think that many farmers would be very unhappy, if they leased the land, if they were deprived from being able to farm the land.

So that's one of the reasons, Mr. Speaker, that I feel that this thing should really be sent back to the drawing board. I don't think it's a good motion. I think it's one of those well-intentioned motions, but it has so many ramifications. I think that even if you believe that the owner should get it, it should state specifically that when the title is transferred, any of the surface leases that have been given out should run with it. Of course, that opens a whole thing. Do we stop at pipelines? Do we stop at oil wells? Do we stop at plants? How about a long-term lease like some people are doing now and many of our native friends have in the Sarcee: a housing development, where you never get ownership; you give them a 99-year lease.

You know, there are just so many ramifications in this. It's well meaning, but it should be sent back to the drawing board, Mr. Speaker, and we should spend some time going through it. What I'm afraid of is that we're going to rush into something here that could have ramifications long, long down the road and hurt many of our young farmers and many of our farm families that are leasing land. It's not fair at all that they should be done out of any compensation because they don't own the land, yet they may have leased it with every right to whatever it is: feed pigs, grow barley, set up a bed and breakfast for people from Lloydminster. Who knows? There are all sorts of things that can be going on on that land. [interjection] Well, everybody wants to get out of Lloydminster - we know that, don't we? - get bed and breakfast now and again. Actually, the leaseholder is left out here, yet that person may be the one that has spent most of the time on it.

Now, I think I may have answered the question from the Member for Calgary-Forest Lawn. He asked quite a complicated question. Of course, naturally he would be very concerned because he represents a constituency where the subsurface owners, I think, tried to drill some sulphur gas wells. At least, if they didn't try to drill sulphur gas wells under the member's constituency, they tried to drill them adjacent to the constituency.

If the time permits now, I'd like to move adjournment of the debate.

MR. ACTING DEPUTY SPEAKER: Well, I was just about to interrupt you, hon. member, because under our Standing Orders the time for discussion of this matter has expired. I thank you on behalf of the members of the House for providing those explanations on those questions.

Now we have another matter before us.

head: **Public Bills and Orders Other than**
 head: **Government Bills and Orders**
 head: **Second Reading**
 4:30 **Bill 218**
Vulnerable Persons' Protection Act

MR. TANNAS: Thank you. Mr. Speaker, it's a pleasure for me today to rise before the House and have the opportunity to speak on Bill 218, Vulnerable Persons' Protection Act.

In a perfect world legislative protection of vulnerable persons would not be necessary. Unfortunately, in reality this is not the case. The tragic fact, Mr. Speaker, is that persons with disabilities are sometimes helpless victims of sexual, physical, and psychological abuse in and out of institutions. The sad irony is that much

of the abuse experienced by people with disabilities is often committed by the very same care givers who are entrusted to protect and care for them. This is a most insidious form of abuse as its victims are often unable to protect themselves, to speak for themselves, to be heard or understood when reporting or indicating such abuse. Indeed, it is a sad and unpleasant matter, a matter which many in our society would prefer not to think about. However, not thinking about the problem will not make it go away. The protection of vulnerable persons in our society against sexual, physical, and psychological abuse is an issue which must be addressed.

The purpose of this Act, Mr. Speaker, is to provide comprehensive protection of persons who by disposition or circumstance are vulnerable. In addition, the Act recognizes the need to protect employees who report cases of abuse from retaliation from the institution or from their fellow employees.

At this point I would like to acknowledge the enormous effort that Professor Dick Sobsey and Mr. Gary McPherson have given in dedicating their time to furthering the cause of vulnerable persons' protection legislation in the province of Alberta. Without the efforts of both Professor Sobsey and Gary McPherson, of the Premier's Council on the Status of Persons with Disabilities, Bill 218 could not be where it is today. Both of these gentlemen have devoted a tremendous amount of their personal time and energy toward the development of vulnerable persons' legislation in the province. The hon. Member for Red Deer-North, prior to his appointment as Minister of Labour, was the sponsor of Bill 218 and relied upon Professor Sobsey's research in presenting this Bill. Professor Sobsey's background paper, entitled the Vulnerable Persons' Protection Legislation, was prepared for the Premier's Council on the Status of Persons with Disabilities, and in essence this forms the basis on which Bill 218 is presented.

MR. GOGO: It includes MLAs?

MR. TANNAS: I'm sorry to report that it does not include those people who are considered MLAs in the House and at election time.

However, it is a serious matter that needs to be thought about. People who are in these circumstances need protection. I believe, then, it's appropriate to recognize the efforts of those distinguished gentlemen who have contributed to this Bill.

Mr. Speaker, current research at the University of Alberta is designed to determine by a group of experts the ranking of proposed measures for preventing sexual abuse of people with disabilities. The group included people with disabilities, abuse victims, service providers, advocates, parents of children with disabilities, researchers, teachers, social workers, lawyers, police, and prosecutors. The expert group was selected on the basis of active interest in abuse prevention for people with disabilities. Overall, this group of experts rated mandatory reporting as the highest priority, with complainant protection or whistle-blower, if you will, legislation as the second highest priority.

People with disabilities, Mr. Speaker, are at greater risk to be assaulted and abused than any other members of our society. The majority of abuse cases very often go unreported. In some instances even when reports are initiated, they are hidden by agency cover-up. In addition, many care givers are often afraid or indeed reluctant to report cases of abuse because they believe, we hope mistakenly, that they will be harassed or perhaps even punished by the agency that employs them as well as being potentially ostracized by their fellow workers.

Alternatively, many people dependent upon care giver services are afraid to report instances of abuse because they fear that the

services they are so dependent upon will be interrupted, denied, or curtailed if they complain. Those who do report their own cases of abuse are sometimes viewed as being problem clients by the agencies that provide these care giver services.

A recent study that was conducted at the University of Alberta found that abuse by paid care givers is 45 percent more likely to go unreported to law enforcement authorities than abuse by other people. Abuse in institutions is 52 percent more likely to go unreported than abuse in other settings, whether it be the home or foster homes or others. The study also found that at least two-thirds of the known sexual abuse in institutions is unreported, and at least 60 percent of sexual abuse by paid care givers is unreported.

These problems are not unique to the province of Alberta nor, for that matter, in time. They have been documented for at least 200 years. A physical assault that takes place in an institutional setting is really no different than one that occurs on a street corner and should therefore be treated as if it is the same; it's a criminal offence. Abuse is a crime regardless of the setting. Be it a custodial institution or inside a person's home, the crime is still a crime.

The right to personal security is one of the most fundamental principles in any civilized society. More than a hundred years ago, in her classic description of institutional life, Elizabeth Parsons Ware Packard wrote:

The most heinous wrong of our present system consists of the fact that the inmates of insane asylums are denied the primeval right of self-defense.

In 1982 the Canadian Charter of Rights and Freedoms formally recognized two essential and inherent human rights. Considered together, sections 7 and 15 of the Charter affirm the right of every Canadian to equality and personal security. Section 7 of the Charter reads:

Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Section 15(1) of the Charter reads:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

This right to full equality is further affirmed in the preamble to Alberta's Individual's Rights Protection Act. The Individual's Rights Protection Act states:

Whereas recognition of the inherent dignity and the equal and inalienable rights of all persons is the foundation of freedom, justice and peace in the world; and

Whereas it is recognized in Alberta as a fundamental principle and as a matter of public policy that all persons are equal in dignity and rights without regard to race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry or place of origin.

Mr. Speaker, no citizen, with or without a disability, can be assured of absolute protection from crimes that interfere with personal security. However, every individual has a right to the same standard of protection provided other members of our society. Where there is a demonstrated inequality, it is the government's responsibility to take the appropriate legislative and administrative action to eliminate this inequality to the greatest extent possible within the means at their disposal. Granted, some areas of inequality remain the exclusive domain of the federal government; for example, amendments to the Canada Evidence Act allowing all victims to testify in a manner most appropriate to their individual abilities and needs. Nonetheless, there are considerable areas which can be addressed at the provincial level.

Bill 218, Mr. Speaker, rectifies many of the inequalities that currently deprive people with disabilities of their equal rights to personal security, protection, and benefit of the law in accordance with the Charter of Rights and Freedoms and Alberta's Individual's Rights Protection Act.

4:40

Mr. Speaker, in the United States title 20 amended the United States Social Security Act in 1975, mandating and funding protective services for all disabled adults. Most American states have implemented their own legislation designed to protect vulnerable persons from abuse and to protect vulnerable persons and employees who report abuse from retaliation. In several states it is mandatory to report suspected cases of disabled adult or elder abuse. Legislation that provides complainant protection may have several components, such as those stressing professional responsibility for mandatory reporting of abuse, appropriate reporting procedures, and in some states penalties for noncompliance. Often legislation provides immunity from liability for reports made in good faith and protection from retaliation by employers.

The background paper to which I referred earlier shows results which indicate that in general the American legislation is working. It has been the case that reports of abuse increased each year subsequent to the passage of legislation and that the number of reports exceeded the number expected. Furthermore, the courts and criminal justice system did not experience substantially increased demands. Positive findings suggest that some abuse was deterred and that legislation resulted in the significant improvement. However, as could be and might be expected, legislation alone could not provide a total solution to the abuse problem.

Granted, Mr. Speaker, we cannot legislate compassion nor moral responsibility. However, in a humane society a commitment to ensure the adequate protection of those citizens requiring compassionate guardianship is a fundamental principle.

Research to the background paper found that existing Canadian legislation is generally inadequate in terms of addressing reporting problems, abuse protection, providing protection for vulnerable persons, and for protecting employees reporting abuse. At present there are some Canadian provinces – namely, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island – which have made progress in providing protective services for disabled and elderly adults. However, no single province as yet has provided comprehensive complainant protection for both the vulnerable persons and for the employees.

Mr. Speaker, an example. In Ontario the Nursing Homes Act of 1980 has a form of whistle-blower protection for employees of institutions who report abuse. However, there is a notable absence of protection from retaliation for vulnerable persons who report abuse.

In British Columbia the Ombudsman has implemented mandatory screening of employees. Screening may act as an abuse prevention measure which may ensure that persons with criminal records involving abuse or assault do not gain access to future victims in the service delivery system.

Prince Edward Island's Adult Protection Act of 1988 gives provincial government power in the intervention and protection of dependent adults who are unable to protect themselves against abuse or neglect. Prince Edward Island legislation provides liability protection for persons reporting abuse in good faith but does not require mandatory reporting of the abuse of an adult. Moreover, Prince Edward Island's legislation makes noncompliance or obstructing an investigation a summary offence.

Newfoundland's Neglected Adults Welfare Act of 1973 indicates mandatory reporting of suspected neglect of an adult, which must

be reported to the director of neglected adults. The Act indicates that all reported information is confidential, and it also provides immunity from liability to persons reporting, for reports made in good faith.

These examples of Canadian legislation indicate that there is an increasing public concern, Mr. Speaker, for both protection from abuse for vulnerable persons and for abuse prevention. The existing Canadian legislation may well serve us as a model from which future comprehensive protective legislation in Alberta and Canada can build.

Mr. Speaker, in closing, I believe it's increasingly important for Alberta to follow the existing legislative models in Canada and those in the United States to implement our own protective legislation for vulnerable persons. It often takes events, sad though they are, like those that occurred recently at the Delvee Ranch to draw public attention and support for the protection of vulnerable persons. Simply put, it is a subject matter which many of us would prefer not to discuss due to its insidious nature. Nevertheless, failure to address this problem will only compound the problem.

In all candor, Mr. Speaker, since this Bill was printed, a number of amendments have been considered which, when instituted, will make this a most worthwhile Bill for the government to adopt.

I look forward to the comments of colleagues in the House in debate, and I urge the Assembly to join me in supporting Bill 218.

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

MR. CHIVERS: Thank you, Mr. Speaker. I rise to support the Bill that's been presented by the hon. member. The Bill contains a very positive step towards preventing abuse of people in institutional care. It provides, as the member has noted, for greater protection and security of persons with disabilities. I think the measures that are contemplated by the Act are worth reviewing carefully.

What the Act does, of course, is require by statute reporting of institutional abuse, a very significant and important measure, particularly when in combination with the other three measures proposed. These include protection from retaliation for persons reporting abuse. I'll come back to that point a little later in my remarks. The third measure is screening of employees for violent and sexual offences, once again a very positive measure. The fourth measure is the requirement for certain types of institutional procedures which are designed to prevent abuse and to respond to abuse.

I think the package of measures is very appropriate in the context of this Bill. The need cannot be disputed. It is clear, and the facts are extremely clear. There's a wealth of data, a wealth of statistics, mounds of research that have shown that unfortunately people with disabilities are indeed extremely vulnerable and are all too frequently the victims of physical, sexual, and psychological types of abuse. On that basis and because of the combination of these factors, the reality is that much of this abuse is unreported, the reasons behind the failure to report being numerous. The care givers, of course, are sometimes reluctant to make the report because of implications in terms of their employment relationships, because of implications in terms of the consequences to funding of institutions and agencies which provide the care giving services. Likewise, there's a fear on the part of persons with disabilities, a fear that perhaps they may be neglected as a result of the reporting, if they were to make the reports, or also with respect to the possibility that there may be overt retaliation against them. So there is fear on the part of both the care givers and the recipients

of the care. This Bill goes a substantial distance to make sure that those sorts of obstacles to reporting are reduced or indeed eliminated where possible.

It is my view, Mr. Speaker, that legislation is absolutely essential to ensure the confidence of the persons who are the victims of neglect and abuse and are in need of protection. I think also we have to bear in mind that they are particularly vulnerable, particularly susceptible to exploitation. This Act goes some great distance towards providing needed protection.

4:50

I would caution, however, that in terms of the Act there are some improvements that could be made with respect to it. The Act seems to be structured and focused around a criminal justice system type of approach to the violence. Indeed, much of the violence that is focused on by the Bill is that type of definition of violence. It seems to me that in that sense it's inadequate, because in a sense it brings into play the possibility of some conflict in terms of judicial standards. Are we talking about the standard of proof of beyond a reasonable doubt? Are we talking about the standard of proof of balance of probability? We're also dealing with the difficulties of proof that arise utilizing that standard. I don't suggest that this was intended by the Bill, but it could stand, I suspect, some clarification in that regard. Perhaps it could be made very clear precisely what the standards are going to be that will be applied in those areas.

With respect to the present, one of the difficulties with the present system, of course, is that the criminal justice system already should provide a measure of deterrence. It should provide punishment. The reality is that because of the criminal justice system being so difficult to apply in these circumstances, particularly in situations involving vulnerable people, that is precisely why we need to be very clear in the Bill, in the legislation, exactly how it is that we see this functioning.

I would note, Mr. Speaker, that in Alberta at the present time there are upwards of 15,000 persons, I believe, who are dependent upon care givers. Of course, that creates a very special type of relationship which by its very nature is open to exploitation. Having said that, I want to reiterate that it is also clear that the overwhelming and vast majority of care givers are not perpetrators of the sort of violence that is aimed at by this legislation. I think it's very important that we keep that in mind. The difficulty is that there are exceptions to that positive record in our institutional care situation. That is what this Bill is focusing on; that is the evil that is attempted to be dealt with in the measures proposed in this Bill.

It is, as I say, a relationship where a vulnerable person is dependent upon a care giver. It is a relationship that is open to the kind of exploitation that gives rise to these difficulties. It's particularly important that we deal with this kind of a social problem in the context of legislation of this type, and I want to compliment the mover of the Bill on this occasion and also the mover of the Bill on the previous occasion that it was brought to the Assembly for the work they've done with respect to the terms of this Bill. It's a very important piece of legislation.

Having looked at the Bill from the viewpoint of the recipients of the care, I think one must also look at the Bill from the viewpoint of care givers. One of difficulties with respect to reporting and one of the reasons – that has been amply demonstrated by the research in the area – why there is a lack of reporting amongst care givers is that they, too, are subject to the same sorts of difficulties. As a matter of fact, there is a code of silence, for example. It could be considered to be almost tantamount to treason to be making reports with respect to fellow care

givers. There is the possibility of retaliation. There are the difficulties that the employers or agencies that are providing the services have to grapple with, with respect to continuity of funding. Once again, by providing a code for dealing with this in the legislation, the Bill brings it out into the open. It gives the necessary protection to the care givers as well as the recipients so we can – and I hasten to speculate that we can – be assured that there will be a greater level of reporting in the future and that the Bill will actually achieve redress of the mischief it is designed to deal with.

The legislation in some respects – and I'll be very brief in my closing remarks – I think could use some tightening up. It would be useful to have an opportunity to do that before the matter is dealt with by the Legislature. I'm concerned about the definition of "vulnerable person" in section 1 of the Act. It's not clear there what was intended, whether it was intended to be conjunctive or disjunctive. Perhaps one of the members sponsoring the Bill could clarify that for me, but it seems to me a simple amendment making it clearly disjunctive would be in order. It could be, for example,

- (l) "vulnerable person" means a person who
 - (i) has been found incompetent under the Dependent Adults Act, [or]
 - (ii) is a resident of a hospital . . . [or]
 - (iii) has a physical or mental disability and seeks protection under this Act.

I think that is the way it should be worded so that it is clearly disjunctive. I do note under (iii) that those three prior ones are found to be disjunctive, I would read it to be, with the fourth branch of that definition.

Section 2, in my opinion, is not clear enough. It doesn't clearly extend the protection to third-party complainants, people that are not either care givers or recipients of the care. I know that's not what is intended, because at other points in the Bill that aspect of it is clarified. I think with the possible potential confusion, particularly since this document is likely to be something that will eventually be reviewed by a court, that should also be expanded upon and clarified.

With respect to the extent, the scope of application of the Bill, I note that as presently formulated, it applies only to organizations administered, funded, or regulated by the province. I'm not sure that that is broad enough. I suspect some care has been given in drafting that provision of the Bill, and I'd be appreciative of comments in that regard. It seems to me that it might be wise to make sure that it has somewhat more scope of application in there, maybe certain circumstances where it would deal with bodies that do not fall within any of those three categories.

This is my final point, Mr. Speaker. With respect to the whistle-blower protection which is set out in section 8, I want to compliment the sponsors of this Bill. That, in my opinion, is an excellent formulation of whistle-blower protection. I only wish the government would see the wisdom of having that kind of extensive whistle-blower protection apply, for example, in the area of labour relations, the Employment Standards Code, and the environmental protection legislation. I would urge the members opposite sponsoring this Bill to make sure that equally extensive provisions are contained in those Bills as the proposal for whistle-blower protection in this legislation.

In conclusion, Mr. Speaker, I again compliment the present presenter of the Bill and the former sponsor of the Bill. This is good work. Thanks.

MR. ACTING DEPUTY SPEAKER: Calgary-*Buffalo*.

5:00

MR. DICKSON: Thank you, Mr. Speaker. I, too, thank the Member for Highwood for introducing this particular Bill and focusing attention on the entire issue of abuse. I appreciate his efforts to provide whistle-blower legislation in Alberta.

Mr. Speaker, it was timely, I thought, that on Monday I heard a radio program involving both the Member for Olds-Didsbury and Dr. Arboleda-Florez, the distinguished forensic psychiatrist at the General hospital in Calgary. They were discussing abuse of seniors. Dr. Arboleda-Florez was making the point, I think powerfully, that seniors are particularly vulnerable in our community, sir, to abuse. They require protection and they require, perhaps most importantly, a strong advocate. When I look at the kind of legislation that's been introduced by the Member for Highwood, I think this kind of legislation has considerable potential for providing that necessary protection for seniors.

Mr. Speaker, the view of our caucus is that there is a need for statutory whistle-blower protection in this area of care for Albertans, Albertans who may be particularly vulnerable to abuse by care givers. I see the Bill as an attempt to respond to problems documented by Professor Sobsey of the University of Alberta. I think there's already been mention of that report. What I take from it, the findings that I think are significant: firstly, that children and adults with disabilities are frequent victims of abuse, that there's a greater possibility for those Albertans to be abused; secondly, that care givers are too often the perpetrators of abuse; thirdly, care giving agencies often don't report abuse for a variety of reasons; next, sometimes victims of abuse lack the capacity – and I emphasize "sometimes," not always – to fully report the abuse to the appropriate authorities; then lastly, that victims of abuse who do have the capacity to fully report the abuse can effectively be prevented from doing so through intimidation or isolation or other techniques available to care givers.

As has already been noted, we've already seen a legislative response in a number of other provinces, and the Member for Highwood has reviewed them. I just commend to him the legislation in Nova Scotia, which in many respects seems to be the most progressive type of legislation in dealing with this particular problem.

As the last speaker indicated, sir, there are a number of shortcomings and problems with the specific Bill 218. I want to identify some of them, not in opposition to the Bill, which I support and my caucus supports, but simply to make the Bill stronger. I noted the comment from the Member for Highwood. He spoke of amendments. Well, unfortunately, I haven't had the benefit of seeing those amendments, so my comments then are focused on the Bill that's currently before the Chamber.

I think the Bill could also benefit – and I say this kindly, sir – from further scrutiny by Parliamentary Counsel, since there are actually a significant number of technical shortcomings and deficiencies in the Bill we have in front of us, and they're deficiencies which detract from the purpose of Bill 218.

Sir, I have a large number of agencies in downtown Calgary, in Calgary-*Buffalo*, that are involved in providing service to the people who would benefit most from Bill 218. I've had the opportunity to go to a number of those groups – advocacy groups, care groups – and ask them for comment and feedback with respect to the Bill. One comment that I've heard several times is a perception that there's some ambivalence in Bill 218. There's some ambivalence as to the genuine purpose. Are we about and focused on protecting the vulnerable person, or are we most focused on protecting the employee and its institution? I think

there's some tension between those two objectives that isn't fully resolved within the four corners of Bill 218.

Now, with respect to the specific text that's in front of us, Mr. Speaker – and this is something that I must say came not from my own reading but from groups that have given me feedback on it. The title Vulnerable Persons' Legislation Act – actually, there are two different titles, one on the face sheet and one on the interior page – is cumbersome, and it's been brought to my attention that it promotes stereotypes, stereotypes of dependency and powerlessness. For example, most women or in fact any other Albertan who is assaulted in the community at large can also be said to be vulnerable. It may be useful, since titles to Bills are often invested with a lot of symbolic importance, that we consider styling it as a victim protection Act or a complainant protection Act or something different.

Sir, with respect to the definition of “abuse” in the Bill, there is a considerable problem with this. Partly for the reasons mentioned by the Member for Edmonton-Strathcona, we've incorporated by reference a number of terms that are part of our criminal law, although I would point out, at least the last time I looked at the Criminal Code, that there is no adequate definition of “neglect” or “psychological abuse” that is part of our criminal law. If members opposite can find that, I'd be wiser. As I understand it, the other terms may be part of the criminal law, but for those specific terms, “neglect” and “psychological abuse,” there are no clear meanings.

As the previous speaker raised, sir, there is a serious issue about the standard of proof. I think the thrust of this Bill is to be one of protection, not punishment. With punishment, of course, we have a much higher standard of proof and the Crown has a very high burden of proof. I'm not persuaded that that burden of proof would apply here, and I'd hate to think that unless a care giver could be found to have done one of these things beyond any reasonable doubt, there would be no action taken to protect the victim.

Moving on, I think, 1(f), health care professionals. It's defined but not referred to again in the Bill. There's nothing the matter with plagiarizing good legislation from other jurisdictions, but I suspect there are some provisions we've got in definition, perhaps from another Bill, that we haven't employed anywhere else in the statute. That may be one of those things that could be cleared up. We don't do anything with the definition of health care professional.

The residential facility as it's defined in section 1 is too limited, I think, for two reasons: not just because there's an increasing thrust on home care for the disabled, which is something I think any government and any legislator would want to aggressively promote, but also because there are facilities and programs in this jurisdiction, sir, that don't receive provincial government funding. Why would they be exempt? If we say this is important, why wouldn't it apply to every facility that provides care to one of the people that otherwise would be able to benefit from this statute?

AN HON. MEMBER: It's just money; that's all.

MR. DICKSON: Well, I think it's not simply a question of money, Mr. Speaker. I think that if there's the motivation to solve problems in our community, there are always creative ways of solving those problems. It just takes the political will, sir, to do so.

With respect to (j), retaliation, I think that's actually misspoken. I don't think what we're talking about is “an act which may be inflicted . . .” What I think is intended to be said is: “an act which may be inflicted on a person in response to a complaint

made or a concern raised.” So I think we have to have another look at the definition of “retaliation.”

In terms of 1(l), as has been said already, I think the definition is too narrow: “a vulnerable person.” It's not adequate to limit it in 1(l)(iii) to someone who “has a physical or mental disability and seeks protection under this Act.” I mean, either the protection exists for every Albertan who otherwise is qualified, whether they seek the protection of the Act or not, or it's one of these things where only those people that have the ability to raise the complaint can benefit from the Act. I would expect that the thrust and purpose of the legislation is to protect every Albertan who would otherwise come within it, and I think that's too limiting.

[Mr. Deputy Speaker in the Chair]

I think section 2 is confusing. There, sir, I think it should read: “to protect both vulnerable persons and service providers.”

I think in section 3, Mr. Speaker, it's not entirely clear that the victim can make the complaint, and I think that's important when we talk about empowerment of disabled Albertans. It has to be clear that those people can make the complaint and not simply somebody in a care giving institution. It seems to be implicit if you look at section 8(5), but I think it should be clarified in section 3.

5:10

Section 5 must also reflect the situation where the victim is a complainant. It doesn't currently do that.

Section 5(iv). I think I've already suggested that it looks like one must first request confidentiality. I think I'm going to move on, sir. In fact, as I look at my notes, I'm reading two different portions together, so I'm going to move on to the next point I wanted to make.

In section 4 there's reference, sir, to “every organization,” and section 5 refers to “every agency.” What's the difference? Presumably we mean the same entity, and I'm not sure why we've switched phraseology between section 4 and section 5.

Section 5(v). Sir, why would we not include in this legislation a positive obligation to inform the victim about pending legal action, to inform the victim about the process so the victim is not victimized again as so often happens in our criminal justice process? After the complaint is lodged, then the victim would be powerless to know what's proceeding. I think there should be a positive obligation to keep the victim informed.

With respect to section 5(ii), what about certain minimum procedures with respect to suspension of an abuser pending a legal investigation so that there's immediate protection?

Section 8 sets out really not one but two different threshold tests. There is an ambiguity here. Section 8(1) says that to get protection, firstly the complainant must act “in good faith and without malicious intent,” but then if you look at section 8(2)(b), the test is “without reasonable cause and malicious intent.” Well, why do we have reasonable cause as opposed to good faith? I think it's important the Act be clear and the threshold test be clear. It isn't currently.

With respect to section 8(3), do we mean tax legal costs by the clerk of the court? Is there some outside check? Is it whatever legal account is tendered in respect of which the taxpayers of Alberta are going to provide indemnification? I think it's too open ended and there has to be some ceiling put on it.

Section 8(6). There are problems with the text both in terms of the authority of this Legislature in the province of Alberta to do what we purport to do and also with the text for those prescribed maximum penalties. That has to be cleaned up.

There's a question, sir, under criminal law in terms of whether we're taking away pleas of *autrefois acquit*, *autrefois convict*. That's got to be dealt with as well in the redrafting of the Bill.

Finally, sir, there's no provision for minimum standards of training and education for staff. It seems to me that ultimately, if what we want to do is improve the protection of disabled Albertans and vulnerable Albertans, we have to consider the level of qualification and training of the people providing the service on an ongoing basis.

In any event, perhaps it's one of the shortcomings of a lawyer, sir. It's tough to avoid getting into the technical shortcomings in what one sees in front of him, but I applaud the initiative in bringing the Bill forward. I don't want it to be misunderstood. This caucus supports the initiative. We just think that with some additional effort this could be made to be a vastly more effective and more comprehensive Bill.

Thank you very much.

MR. DEPUTY SPEAKER: The hon. the Minister of Labour.

MR. DAY: Thank you, Mr. Speaker, and I want to thank those who've already addressed this item today. I want to thank the Member for Highwood for identifying with the importance of this particular Bill and this direction that we'd like to see it go. It's one of the interesting constructs, I guess you could say, of our parliamentary system: as responsibilities of an MLA change, they can actually lose the ability in one area to bring forward a Bill of this nature. I'm happy to report that the Member for Highwood is very sincere and very forthright in recognizing the importance of this particular Bill, and my congratulations to him for that and also for presenting so well today.

It sometimes can be seen as somewhat scary when you present something and the opposition members agree with you. Sometimes your own members then look at you somewhat suspect and say: "What's going on here? There must be something wrong if the opposition are agreeing with it." You know, there are some things that transcend philosophic barriers, and care and concern for people is one of those things. Certainly in this area that's where we can link arms, and I appreciate that very much.

It should be acknowledged that Professor Dick Sobsey was very significantly involved in the assistance in drafting this particular Bill. It's one thing to have the concern as I have had; it's another thing to be able to work with someone who's had some experience personally and also in the area of drafting and see it come to a degree of fruition like this. Also, Gary McPherson needs to be acknowledged, because in the process of the development of this Bill, I did ask that he and his council, the Premier's Council on the Status of Persons with Disabilities, take a look at it. They recognized that they weren't going over it with a microscope but to give it some analysis from their very keen perspective. So that's been done too. I think it's fair to say that Gary McPherson would also like to have more input in this particular Bill in terms of some of the refinements. All members today have mentioned and have recognized that there are refinements needed.

[Mr. Speaker in the Chair]

What's important to me and what I'm particularly pleased with today is that we have had agreement in this Legislature to at least get this on the table and get it up here for discussion. So I thank all colleagues in the Legislature for that, because when it comes time to see a Bill passed and a law enacted, something like this really does need to be refined in such a way that the positive aspects of the Bill will not be lost because of legal technicalities.

I can assure members of the opposition, the two who have spoken reflecting their legal profession, that we're not looking at that negatively. I understand your intent is to give support to this Bill, and what you're concerned about is that the legal technicalities all be in line so that its importance isn't lost, and I take it in that spirit.

I know that anytime we look at legislation, anytime we look at something of this nature there's a concern, especially among those of us who operate from a small "c" conservative philosophy, about more so-called regulations. The fact of the matter is that there are people in this province who are experiencing a variety of physical, psychological, or sexual abuse in a variety of our institutions, be they large institutions, home care, or other community facilities. It's not to try and ring an alarm bell and raise a concern so as to frighten people or unnecessarily cause people to panic, but it's happening. That's just the sad reality.

I'm proud to say that there's a fine institution in Red Deer-North, the Michener Centre, with care givers in that institution who are known, the vast majority, for their willingness and their ability to care for vulnerable people. It goes beyond just what they do at the facility itself. In fact, the care that they extend goes out into the group homes in the community. Many people don't realize that large numbers of people who work at Michener Centre, for instance – and I'm sure it's true in other institutions in the province – actually give quite a significant amount of volunteer time to the clients that they work with on their days off, going to various places around the community or at times even taking them on holidays with their own families or bringing them home for the weekends. They can have a weekend at home with their own families and maybe have a weekend away from the centre itself. So I want to underline that, that most people in this province who are care givers I believe do so in a very responsible and a very caring way. Unfortunately, that's not true of all of them and hence the need for this type of a protection Act.

5:20

There are other people that I'd like to mention who originally sat down with me and brought their concerns to me about this type of thing. It's somewhat ironic that I hesitate to bring their names forward. In their own concern about telling me about some of the situations that go on and talking about some of the things they have seen in some instances, they are worried about what may happen to them within the particular place where they work. They may be seen, in fact, as frivolous or as mischief makers. So I want to thank those people who have helped me to recognize this problem and to come forward with this particular Act. They don't feel comfortable without an Act like this in place. It does in fact happen that when a person reports certain instances, if there are supervisors they work with or managers that they work with that are worried about how this might reflect back on them as managers or supervisors or in fact on their own agency or organization, they can actually experience various forms of retaliation for bringing forward these types of concerns. Sometimes these are very subtle. It can mean being transferred to a particular area of that organization that isn't as appealing to the particular employee. It can mean being overlooked in terms of promotion or advancement. There are so many subtle things that can take place if a person is known to be bringing forward concerns of this nature.

On the other side of that, this Bill also speaks to the fact that we recognize that there can be people who would irresponsibly report instances that maybe have not happened. Again this isn't the majority of employees we're talking about, but there have been in the past situations where for reasons of a personal grudge or grievance against maybe a supervisor or a manager or another

employee, somebody may bring out a complaint that is frivolous. This Bill anticipates that and tries to take some steps to correct that and keep that from happening.

Having said that, I recognize the legal concerns being brought forward from the point of view of the aspect of reasonable doubt, from the point of view of the standards. How are you going to ensure that in fact activity has taken place which would then be subject to prosecution, let's say, under this Act? Those are the challenges. Those are some of the difficulties that we do have to face.

I also want to emphasize that this particular Act, if it goes ahead in a refined form – and I hope to see that happen someday in the not too distant future – is not the only and total answer or the only approach to this type of problem. It has to be seen as one of a number of approaches to the problem that we face and that is out there. I want to emphasize that. There are other things that have to be looked at in terms of enhancing the protection of Albertans when they are vulnerable. That brings us, just emphasizing that, to the fact that this is a component, and we need to also look at a number of other means to deal with this.

Then that brings us to the whole question – and one of the members opposite brought this up – of why do we use the word “vulnerable,” a vulnerable person, and the mention of stereotyping comes forward. Actually, the word “vulnerable” was chosen with some care and with some suggestion from other parties who are involved to try and avoid the stereotype. If we had said, for instance, “handicapped” person, that becomes quite stereotypical. The word “vulnerable” reflects the fact that all of us at some time in our lives are vulnerable. We're very vulnerable, obviously, when we are first born, and we're very vulnerable as the years progress and we need to look to others more and more for assistance and protection. So the word “vulnerable” was chosen with some care and with the intent of not stereotyping. It was done for that purpose.

Having said that, let me just emphasize that as we move on to refining this particular Bill and to looking at amendments, if there is a title, if there is a word that can be agreed upon that would more appropriately address this, then I know I for one and I'm sure the Member for Highwood are not hung up on that particular term. If there's something that will better do that, then we would want to certainly be in a position to do that.

If I can take a minute, I'd like to comment on just some of the other areas that were brought up. I compliment members opposite for some keen observations on this. The question of the health care professionals in 1(f) being defined but then not mentioned further in the Bill – the suggestion was that we could look at other jurisdictions and possibly plagiarize or use other definitions that would be consistent. I have no problem with that at all. I think we should be doing that.

I've already addressed the concern about retaliation and what that means.

Also, in terms of why does it appear that we're just limiting this to agencies, organizations, or institutions that are government funded or publicly funded, my intent at the start was to get something out here, to get something into the public arena. One of the concerns I had was that if it was spread too broadly and too thinly at the start, there might be too many ramifications and areas to consider that we might just lose the whole thing. So using the publicly funded organizations as a starting point is something that I felt would give us the focus, but again if there are suggestions that can come into place so that we can broaden it and it wouldn't be diluted in its effectiveness, then I think that's fair and should be looked at.

In section 3 where it's not clear if the victim can make the complaint, that, I would suggest, should be clarified to suggest that the victim indeed can make the complaint. We do need to look at that.

I see we are running out of time, and the bell is going to go momentarily. I would like to emphasize the fact that what we have here today is a significant first step, significant from the point of view that I know in my own colleagues there seems to be a ground swell of support for this type of legislation. Also, from the members opposite there's obviously significant support. That's what I'd like us to focus on: the areas we can work together on this. The Member for Highwood and myself and other of my colleagues would be open to sitting down in some kind of study sessions with members opposite and also with some of the agencies that the member from Calgary was talking about and other ones that the Member for Highwood would like to bring to the table.

We need to refine this; it's very important. We have this problem in Alberta. Vulnerable people are being hurt. The people who sometimes report that are being hurt, and we need to move forward with this. I'm very encouraged by the support we've seen thus far and look forward to this becoming a reality, hopefully in a government Bill.

MR. NELSON: Mr. Speaker, I'd like to request adjournment of debate, please.

MR. SPEAKER: Having heard the motion, those in favour, please say aye.

HON. MEMBERS: Aye.

MR. SPEAKER: Opposed, please say no. The motion carries.

[The Assembly adjourned at 5:30 p.m.]

