

Legislative Assembly of Alberta

Title: **Monday, May 10, 1993**

8:00 p.m.

Date: 93/05/10

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

[Mr. Schumacher in the Chair]

MR. CHAIRMAN: Order please. The clock on the wall indicates that it's 8 o'clock in the evening.

Bill 66

Members of the Legislative Assembly Pension Plan Amendment Act, 1993 (No. 2)

MR. CHAIRMAN: Would the hon. minister like to introduce the subject matter to the committee?

MR. KOWALSKI: Thank you very much, Mr. Chairman. We've already talked about the principles associated with Bill 66, so I'll be very, very brief in just highlighting some of the sections dealing with this Bill. This Bill does have a preamble attached to it, which is not the norm for most Bills that do come before the Legislative Assembly. This afternoon I had circulated to all members and will introduce tonight now in committee an amendment that will go with respect to the Bill.

In the Bill itself on page 5, Mr. Chairman, where you have the amendment under section 8(b) as amended, there are several words that are being excluded from what's printed in the Bill, because in essence that same matter is being dealt with in the transitional clause that we'll see at the bottom of the page dealing with the amendment.

Mr. Chairman, the second item under A in the amendment, (b) by striking out the proposed section 15(2.6), is redundant phraseology.

The third one under B deals with a clause that's located on page 11 of the Bill, the last several lines at the bottom dealing with (2.1), and you'll see one subsection has already been repealed.

The item known as C on the amendment is a transitional clause, which is a new clause that will be added. It'll be on page 16 of the Bill itself. Mr. Chairman, that clause might very well be known as the McInnis amendment, because it has to do and it deals with a certain circumstance that seems to affect one member of this Legislative Assembly. What that transitional clause will do is allow the reinstatement of that particular member in the public service management plan. Without that clause in there, in essence, the benefits that had been purchased by that hon. member would not be permissible.

Mr. Chairman, I might also point out on page 3 of the Bill a section known as 5, closure on active participation. It's a very, very clear clause.

On page 4 of the Bill section 14.01 deals with forfeiture of government contributions to the pension plan, and all members will recall the two aspects to the plan. There's the pension plan per se plus the other additional change that was made as a result of federal tax regulations brought in on January 1, 1992.

Mr. Chairman, under division 3 of the Bill section 26, on page 8, deals with the position of persons not vested at plan closure.

Other than that, the Bill follows through on the principles that we've talked about before on numerous occasions in this House, principles that I had an opportunity to outline to this Legislative Assembly on May 4, 1993, when I introduced second reading of Bill 66. Mr. Chairman, I should also point out that second reading was closed on this particular Bill on May 6, 1993, and there was

rather conclusive voting in the House. In terms of second reading itself the Bill carried 36 to 12 when the vote was called.

So, Mr. Chairman, having said those items with respect to the Bill, it's rather straightforward. We've dealt with the principles and would be happy to deal with any questions that hon. members might have with respect to the mechanics of this particular Bill.

MR. ANDERSON: Mr. Chairman, in reviewing the Blues with respect to second reading of the Bill, I note that the hon. Deputy Premier didn't have an opportunity to respond to the questions which I raised regarding the Bill and its effects on the principle of retroactivity. So I would like to give the Deputy Premier this opportunity to respond specifically to those parts of the Bill which deal with the retroactive treatment of the MLA pension plan and to identify, first of all, whether or not that principle is intended to be government policy applying to all pension plans; secondly, whether the principle of retroactivity would apply more generally to legislation; and third, I would hope he would answer no to both of those questions, and if so, can he give some assurances to other Albertans who have pension plans in the teachers' retirement fund or any other public plan that this government will not agree with the principle of retroactivity for any of those plans? To make it clear what is meant by retroactivity: decisions made today or in the future which will take away benefits previously given. Could the Deputy Premier respond to those questions?

MR. KOWALSKI: Mr. Chairman, perhaps one of the most difficult aspects of a Bill of this type is the aspect dealing with retroactivity, and while there may be a legal definition for the word "retroactivity," I do not have in front of me that legal definition. I can only talk about the principle of it. Essentially what it means is that a government would pass a law that would take effect sometime in the past, and along with that law there would be almost the implication that there would be certain penalties associated from the date on which the law is passed to sometime in the past to which point the law was to take effect. It's probably one of the things that I'm sure most legislators would probably have the greatest degree of concern with from a point of principle, and I'm no exception to that at all.

The whole concept of retroactivity is one that I find rather appalling. It's abhorrent in many ways, Mr. Chairman. When the principle of retroactivity is then allocated against a group of people in a particular state or a particular political environment, it even becomes more unpalatable. I think the history of the 20th century certainly could give us very, very profound examples where retroactivity has been brought into being by various governments, whether or not it was governments created in what became known as the Soviet empire after the year 1917. Certainly it was adjusted and adjudicated by those who functioned as national socialists in the country of Germany in the 1930s. It's certainly been applied by other states and governments in the world on various occasions.

Our caucus, the government caucus, spent a great deal of time on the concept and the principle of retroactivity. It's a very difficult one, and it was not an easy decision to be arrived at. Finally, when the decision was made that there would be a retroactive provision with respect to the statute, Mr. Chairman, it was essentially done on the basis that it was the elected people who were then passing something that would be impacted upon them. There was no intent to expand the principle of retroactivity to any other group or any other body in the society known as the province of Alberta.

Having said that, it is most certainly not the philosophy of the Progressive Conservative Party, the philosophy of the Progressive Conservative government to see the principle of retroactivity

viewed as a precedent-setting principle for anyone else who would come back in the future and say, "Well, look; on this particular day or in this particular month of May 1993 you did pass a law that affected someone back." Mr. Chairman, in this case it was a law that would affect the honourable men and women who had been elected in the province of Alberta. I sincerely hope, to my honourable colleague, that no one would ever walk away once this decision has now been implemented into law and take the view that it is now the official position of the government of Alberta to have the principle of retroactivity applied to anyone else.

I simply found the whole debate, from a personal point of view, to be very troubling and very abhorrent, and I certainly hope that no one ever in the future will say, "Well, by doing what you did in May of 1993 means that you now have provided yourself with all the doors that will allow you to open to go after, quote, all the others in our society." That has never been the intent. It was never part of the discussion; it was never part of the debate, Mr. Chairman. In fact, there are some very, very terrible lessons in history when a government uses the weapon of retroactivity provided to it.

MR. CHAIRMAN: The hon. Member for Edmonton-Kingsway.

MR. McEACHERN: Yes, Mr. Chairman. I can't resist a comment or two on the debate that the previous two speakers have engaged in. It would seem to me that the government having been bullied, if you like – and rightly so – by the public and by the opposition into bringing in retroactivity, even in very special and particular circumstances and even if the government does not intend that to impact on other people in other places and other times – and I agree with that. But having accepted retroactivity, having finally decided that they had no choice, that they would not get re-elected if they didn't do something about the retroactivity of pension cuts, then I cannot understand why they didn't at least cut them enough to be worth doing it. It is most extraordinary to me that they would accept the principle, decide to do it, and then make cuts in the neighbourhood of 5 to 10 percent.

8:10

Now, really everybody knows that proper retroactivity back to 1989 for the members that are retiring and are walking away with the big packages would take back a 30 to 40 percent cut. Certainly some of the pension benefits that are being accrued to some members of this Legislature who are about to leave could stand that kind of cut, and certainly the population of Alberta intended those kinds of cuts. It's not good enough for the minister to stand up and say: well, gosh, you know, it was a terrible thing to do, and we really hated to do it. Of course you hated to do it, but then you took too much in 1989 both on the pay and pension side, and the people of Alberta have demanded that it be rolled back, and your rollback is much too small to satisfy that demand. This idea of saying, "Well, those of us that are going to stay on will take it back to '89 and have no pension at all" is just a diversionary tactic that really doesn't make a lot of sense. So I can't understand why the government, if they've accepted the principle, didn't at least make worth while doing some kind of cut on the pensions that some of these people are going to walk away with. They certainly should have been rolled back to the '89 level. That's what we on this side of the House were prepared to live with, and I think the government should have been prepared to live with it.

Mr. Chairman, I don't think that it does the Deputy Premier much good to stand up and cry crocodile tears. The people of Alberta aren't going to be too sympathetic. The fact is that the

cuts were not deep enough. If you're going to accept the retroactivity principle and do it, then for heaven's sake do it at a level that was demanded by the people of this province. It's not an unreasonable demand on their part. There was certainly no contract, as the other Deputy Premier tried to say the other day, with the people of Alberta. They certainly didn't have any vote in saying that they wanted the members of this Legislature to take a 30 percent pay raise and almost a 40 percent increase in pensions right after the 1989 election. So if you're going to do it, then for heaven's sake do it to a level that's acceptable to the people of this province. After all, this is meant to be a democracy, and the people of this province will just pass judgment on it in the coming election, I guess is all I can say.

MR. CHAIRMAN: Order please. Before recognizing the hon. Member for West Yellowhead, the Chair may have missed something in the Deputy Premier's introductory remarks, because the Chair is not clear whether the Deputy Premier in fact moved the government amendments or not.

MR. KOWALSKI: Mr. Chairman, I thought that I had, but if it would be more appropriate, I would like to move as well the government amendment to the amendment to Bill 66 dated May 7, 1993.

MR. CHAIRMAN: The motion before the committee is on the government amendments.

The hon. Member for West Yellowhead.

MR. DOYLE: Thank you, Mr. Chairman. Many things were raised in second reading last week in reference to double-dipping. I accept, of course, this amendment. I see the Deputy Premier laid it out as basically a housekeeping amendment to the Bill.

I would like to remind the government again that I introduced Bills in 1990, '91, and '92 in regards to double-dipping. This is seen by the taxpayers of Alberta as a very disgusting misuse of taxpayers' money. They called for it to come to an end then, and they called for it to come to an end now, not after the next election.

The Deputy Premier spoke of retroactivity. Of course there was retroactivity to many members of the Legislature. There's no reason why, when the retired members from Little Bow and Three Hills had to return some portion of their pension, these people who are double-dipping should not also have been retroacted and had to pay a portion or all of the double-dipping in regards to the last four years, from 1989 when it was first identified that the people of Alberta wanted this misuse of taxpayers' money to end. As I said the other evening . . .

Chairman's Ruling Relevance

MR. CHAIRMAN: Order please, hon. member. The Chair keeps hearing the word "double-dipping." That seems to be relating to what the hon. member wants to address in his amendment that hasn't been moved yet. We do have the government amendments before the committee now, and I think that for the proper disposition of our discussion we should try to deal with these amendments and the debate thereon one at a time.

MR. DOYLE: Because these were brought in, Mr. Chairman, I felt it was the appropriate time to ask that those other questions be dealt with in government amendments, rather than just amendments from the opposition. These people that are double-dipping

should hang their heads in disgrace and return the money that they ripped the taxpayers off for.

Debate Continued

MR. CHAIRMAN: Are there any more questions or comments on the government amendment moved by the Deputy Premier?

[Motion on amendment carried]

MR. CHAIRMAN: The hon. Member for Edmonton-Strathcona.

MR. CHIVERS: Thank you, Mr. Chairman. As we all know, there's little point in the limited time available this evening in belabouring the government amendments in view of the fact that closure will be upon us shortly. The more important principles – and there are a number of them – can, however, be addressed by some amendments, and I'm making them available to be circulated to members. I gather it's at the Table already. [interjection] It's there. It'll be distributed now. I appreciate that it hasn't yet been distributed, but if I might just briefly address the first amendment proposed by the New Democrat Official Opposition while we're waiting for the amendment to get to members.

The amendment proposes a change to section 32 of the Bill in subsection (b) by adding before the proposed subsection (4.1) the following subsection, which will be (4.01):

For the purposes of calculating pensionable salary under section 17, the amounts payable under sections 39, 42(1)(a) and 43(3)(a) of the Legislative Assembly Act shall be those in force and effect on March 20, 1989 which shall be deemed to have continued in effect to plan closure.

Now, Mr. Chairman, clearly one of the issues that Albertans have spoken in respect of with regard to the excesses of the MLAs Pension Plan Act is the effect of the increases that took place in 1989 after the election. This amendment addresses that issue. The effect of this amendment can be very simply stated. The effect of this amendment is to ensure that for the purpose of calculating pensionable salary under schedule 2 of the pension plan, the rates that will be used will be those that were in force and effect on March 20, 1989, the rates that were in force and effect at the time the members in this Assembly ran for office. That clearly is one of the major concerns of Albertans. This is an amendment which clearly and unambiguously addresses it and will indeed accomplish what it is that should be accomplished in terms of dealing with this pension. What this does is deem those rates that were in force and effect on March 20, 1989, to continue in force and effect.

I would urge members on all sides of the Assembly to adopt this amendment.

MR. CHAIRMAN: The hon. Member for Vegreville.

8:20

MR. FOX: Thank you, Mr. Chairman. I'd like to speak in support of the amendment as proposed by the hon. Member for Edmonton-Strathcona, because I think this amendment gets at the very heart of the pension issue and the whole controversy surrounding retroactivity that has dominated the provincial agenda for almost a month now, a lot of discussion about the MLA pension plan, a lot of very legitimate concerns being expressed by Albertans about the extravagance of this pension plan, especially when compared to people in the private and public sectors. We on this side of the House have proposed a number of good ideas to the government about how we could deal with retroactivity, how we could make changes to that MLA pension plan such that the benefits would be fair and reasonable and something that would not encumber the taxpayers for a very long time.

This amendment will meet the test, because it's intellectually fair and it's politically fair to say to those people who were elected in 1989: the rules that will be in place with respect to your pension plan are the rules that were in place when you got elected in 1989. Mr. Chairman and members of government caucus, that would include the salaries that were in place in 1989. It's a very important consideration. Let's not lose sight of the fact that when salaries increased post-1989, not only for MLAs but for cabinet ministers and Whips and House leaders and various other members in caucuses on either side of the House, it had a dramatic effect on the benefits that members would accumulate under the MLA pension plan. I submit that that's wrong, and I believe the people of Alberta think that's wrong as well.

Now, we've argued for retroactivity. The government said that it was an offensive concept: we won't go for retroactivity; it's legally wrong. Well, we proved that to be a myth. We submitted lots of legitimate legal opinion. The Member for Edmonton-Strathcona tabled in this Legislature a legal opinion that proved it was quite within our power to make retroactive decisions about our own pension plan. They said that it was morally wrong, and we proved that this government has, when it suited them, made retroactive decisions that have affected Albertans, not ones that affect their own members perhaps but certainly other Albertans like the Lubicon.

So we debunked all of these myths, proved them wrong, and forced the government to consider retroactivity, which is what Premier Klein did when he came out with this dramatic announcement that he was going to scrap the MLA pension plan and cut benefits by 25 percent. Well, Mr. Chairman, he did not cut benefits by 25 percent. The government's Bill does not cut benefits by 25 percent. It merely reduces the benefits for that period '89-93 by 25 percent by making the change from 4 percent benefits to 3, and I submit that it's really misleading the people of Alberta to pretend that dramatic changes have been made to the MLA pension plan.

It's important when we make recommendations about retroactivity to make recommendations that affect us all equally. I submit, Mr. Chairman, that this amendment serves that purpose admirably, because it rolls back the MLA pensions to the terms and conditions in place when all of us got elected in 1989, and that makes it impossible for anybody sitting in this Assembly to complain about retroactivity and say, "Well, it affects me and not you," or "I made decisions with respect to my career when I ran in 1989" and all that sort of stuff. This puts in place the rules, terms, and conditions that were in effect when we ran in 1989, including the salary levels.

This becomes even more important when you consider the enormous unfunded liability of the MLA pension plan and how it got to be there. As an MLA it's a great concern to me that the plan we've all paid into over these last number of years is not self-funding. It has not lived up to its expectations, and it's encumbered the taxpayers. It's placed an enormous burden on the taxpayers, the people of the province of Alberta, and one of the reasons is because the benefits under the plan are far too generous, made even more so because of the salary decisions that have come into effect since 1989.

There's another reason that's got to be enunciated again and again and again in this Legislature, as pointed out by my colleague from Edmonton-Strathcona. The Members of the Legislative Assembly Pension Plan Act has within it a provision passed in 1985, a requirement that the government establish a pension plan board that monitors that pension plan to make sure the amount put into the plan relates in at least some way to the amount going out. Well, this government broke the law, Mr. Chairman. They never

appointed a pension plan board to monitor the MLA pension plan, and as a result, this enormous unfunded liability has grown over the past eight years. I submit that that's dereliction of duty on the part of the Conservative government. One has to wonder if they would so blatantly and flagrantly disregard laws that are passed in this Assembly, like the Members of the Legislative Assembly Pension Plan Act, that requirement – I forget the section number – that compels them to appoint the board that they obviously didn't.

AN HON. MEMBER: Section 5.

MR. FOX: Section 5. Thank you, hon. member.

Obviously the MLA-composed Members' Services Committee does not meet the requirement of establishing this five-person board to monitor the MLA pension plan. If the government will so willfully ignore and/or violate its own legislation in this case, what law is safe? The members opposite talk about retroactivity. If we bring in retroactivity for our own pension plan, what group of Albertans is safe? What law in the province is safe from the slender hand of the Legislature reaching in and making retroactive decisions? Well, I submit that there's a greater concern here. If the government is not prepared to obey its own laws, to live up to the legislation that we pass through a time-honoured, democratic process in this Legislature, then what law is safe, Mr. Chairman? I ask you. I ask hon. members. Is there any indication that governments are going to obey any of the laws that they pass in this Chamber, or is it going to be a selective, ad hoc kind of a thing? They'll obey the laws that are easy to obey and ignore the ones that pose some inconvenience.

I've thought a lot about the issue of retroactivity, and I've listened to some of the debate from members opposite. I'd like to assure the Member for Smoky River, who stood in his place the other day and chastised members of the opposition for talking about retroactivity, implying that we didn't respect the efforts and commitment of long-serving members of this Assembly. I want to tell that member that . . .

MR. PASZKOWSKI: I wasn't implying. That's a fact.

MR. FOX: Well, I'll tell you what the fact is. When the hon. Member for Peace River announced that he was retiring and they were going to have a roast, it was an honour for me to take money out of my pocket and contribute to that roast because I respect that man. I respect his record in the Legislature, and I respect his contributions to Albertans, as I do several other members over there. I can see them, people who've worked long and hard for the people of the province of Alberta, contributed in good faith to this MLA pension plan. But that does not mean that the benefits that have accrued to members as a result of the salary raise in 1989 make that plan fair. It's unfair.

AN HON. MEMBER: It shouldn't be taken away.

MR. FOX: It should be taken away. You're exactly right.

AN HON. MEMBER: It shouldn't be.

MR. FOX: It should be. I hope you're going to vote in favour of this amendment.

All of us, all hon. members ran in 1989 under certain terms and conditions in place in 1989 with respect to our pension plan. We made contributions to that plan, and I submit that members deserve to be paid based on the rules and conditions that were in

place. But that includes the salary. What possible justification is there for people to feel that somehow in the last four years we as legislators have done something that makes us deserve a 40 percent increase in our pensions? Explain that to me.

MR. PASZKOWSKI: Did your party oppose it?

MR. FOX: The MLA pension plan has not been voted on in this Legislative Assembly, hon. member. I don't know why you can't understand that.

This amendment proposes cutting everybody's pensions equally. I won't say yours because you have to get elected twice before you qualify, so it's a nonissue for you. It's going to cut every member's pension equally and base it on the rules and conditions that were in place when we ran in 1989.

Referring to members who may only get elected once in their political career, I think it's a shame that in order to sort of mask or hide the Premier's lack of effective action with respect to retroactivity, he felt it necessary to axe the entire MLA pension plan. I think it's a shame that he had to take that kind of phony smoke screen action in an effort to hide his real lack of commitment to making realistic, fair retroactive decisions with respect to the MLA pension plan.

So let not any member in this House stand and say that members of the New Democrat opposition do not understand the important and valuable contribution made by long-serving members of the government. I can see a number of them around here whom I respect and whose efforts I value. That's not the issue here. The issue is what is fair and right, what is responsible in these times of restraint, when we as legislators are trying to demonstrate to Albertans that we're going to make a commitment to tighten our belts in the hopes that it creates some sense of solidarity with the people who are being asked to tighten theirs, Mr. Chairman.

I would like to hear some good arguments against this amendment. I realize it's commonplace for the government to just vote against opposition amendments because they're proposed by the opposition, but I submit that this is a seamless amendment that rolls things back to terms and conditions that were in place when we ran in 1989, and in that respect it's fair and reasonable. I await arguments to the contrary.

8:30

MR. CHAIRMAN: The hon. Member for Calgary-Buffalo.

MR. DICKSON: Thank you, Mr. Chairman. Firstly, with respect to the amendment proposed by the Member for Edmonton-Strathcona, I want to note that this represents a huge improvement over the legislation put before us by the government. It does recognize the reality that the pension plan we're dealing with in fact was first implemented in Alberta in 1969. It was subject to enhancements – 1970, 1976, and 1992 – but the plan existed before. I think what made the plan particularly offensive for so many Albertans was the fact that the 30 percent pay hike took effect post the 1989 election. That's what dramatically skewed the value of the pension.

My one concern with respect to the amendment, Mr. Chairman, is the fact that it doesn't go far enough, because what we're still left with, after all, is a defined benefit plan, not a defined contribution plan. Sir, on May 7 the Member for Lethbridge-West made a number of useful observations, concerns in terms of the wisdom of abolishing the MLA pension plan and doing so with a retroactive application as well. He raised a concern with respect to the precedent of retroactivity after legislation was passed which he

described as being duly thought out. He raised a concern about who was next – school teachers, nurses – and talked in terms of backtracking on a commitment made by members. But I simply remind all members that as the Member for Calgary-Mountain View indicated the other day, there is authority in this Legislature for retroactive legislation. In 1977 when the Land Titles Act was amended to adversely affect rights otherwise acquired by the Lubicon people, how many members in this Assembly rose and said as a matter of principle, “This is offensive; this is bad”?

Mr. Chairman, I think the Member for Clover Bar said the other day that he decried MLA pensions being dealt with in a crisis situation. A crisis, I respectfully submit, has existed for a long time, and it's been ignored for much too long by legislators. The Member for Clover Bar expressed concern that when government provides its word or contract, it should be bound by it.

The Member for Calgary-Currie made a number of interesting observations on May 6, Mr. Chairman. He took issue with the calculations that had been done and have been used frequently in this Assembly, calculations prepared by the Association of Alberta Taxpayers. The Member for Calgary-Currie challenged the accuracy, the validity of many of those assumptions. I think it's a fair criticism to say that some of the projections may be subject to qualifiers that were not expressly raised. But surely those kinds of criticisms beg the bigger and more important question: why did we ever go to a pension plan, and continue it for many years, that was a defined benefit type? The minute we take a defined benefit kind of pension plan, we run the very high risk that we're going to end up with an unfunded pension liability because the payout ultimately is always calculated according to an arbitrary formula which really bears no relationship to the actual contributions paid in by the members who ultimately will be benefiting under the plan.

The Member for Calgary-Currie also expressed concern about the principle of retrospective application. He suggested it was in some fashion contrary to basic rights and fundamentals of basic rights. He indicated that we must be careful as custodians of the public good to not overreact. He talked about the importance of safeguarding the rights of citizens for the future. But all of that misses this point, and I say this with the greatest respect because I've always found the Member for Calgary-Currie to have been an extremely capable member both of cabinet and of this Legislature. I think it somewhat disingenuous to talk darkly about government moving on to retroactively cut pensions of public servants if they start with their own pensions as legislators. Public servants obviously are hired. They're hired pursuant to terms of a contract between the people of Alberta through the government, so the government in effect is the employer. The employees are supervised. They're regulated by the employer. Public servants can be dismissed by the employer subject only to the terms of the contract of employment or the collective agreement. Obviously, nobody hires an MLA. We're here by virtue of the provisions of the Legislative Assembly Act. This isn't part of the Constitution Act. It's an Act that this body is capable of changing at any time. We're here by virtue of an election, and none of us has gone and negotiated terms of employment with 30,000-odd constituents in our respective constituencies.

The reality, aside from all the concerns expressed by members opposite, is that the 83 members in this Chamber constitute a sovereign body with a unique right that no other group in Alberta has. We have the right to determine our own compensation. What's more, as we've demonstrated over the last number of years, we have the unique opportunity to be able to revise that compensation. With respect, I think the power has been abused, and there are plenty of examples. We can look at the housing

allowance, which I think goes far beyond providing basic accommodation. I think we can look at the business of people collecting \$100 for serving on a committee. It's surely part of the same job description. I think we can look at an example like members being provided with a mileage allowance at the same time each member is provided with a credit card for motor vehicle expenses. I think it's foolish for members in this Chamber to go on moralizing about retrospective effect and the dangers – and we'd be well advised collectively not to raise red herrings like the sanctity of contracts – when none of us is here by virtue of any employment contract in the first place.

The other day the Member for Smoky River decried that members are taking shots at people who've dedicated 22 years of service to this province. I think nothing could be further from the truth. It's my respectful submission, Mr. Chairman, that these long-serving members both compromise and depreciate, diminish, their own efforts in this Chamber by refusing to acknowledge that the pension they will soon be entitled to or may already be entitled to is abusive and exploitive. This Assembly does have, as the Member for Lethbridge-West said on May 6, a proud history of people who served and served well. I respectfully suggest that they can best honour that proud history by voting against Bill 66 and accepting Bill 354.

The Member for Lethbridge-West had proffered the observation the other day that no one has made any meaningful suggestions to fix up the plan. I simply refer that member to Bill 354, which I think would dramatically and radically change the MLA pension plan.

I think it is legitimate and appropriate for the Legislature to reform MLA pensions, to do so with retrospective application. I think it's nonsense to say this is some type of precipitous action. Overall reform is not some desperate ploy. It's frankly long overdue, and it's been too long in coming. I think it's an essential measure to restore some issue of fairness, some sense of proportion to the issue of MLA compensation, and that in fact is the way I view the Liberal initiative of March 1993, a position which has been consistent since March. This was a big issue. To any member that suggests this has suddenly become an issue, I simply ask who those members have been talking to. I can advise members that this was a huge issue in the spring of 1992. It was a big issue in the by-elections in Calgary-Buffalo and Three Hills, and it's going to be a huge issue in the general election about to come.

The members for Lethbridge-West and Calgary-Currie have both outlined compelling reasons, I submit, why Bill 66 is illogical, irrational. It's the worst kind of knee-jerk reaction, and it deserves to be soundly defeated. The Deputy Premier in *Hansard*, page 2611, described the Bill before us in terms I can only describe as astonishing. He described Bill 66 as, and I quote, “a well-thought-out, well-organized, well-developed Bill.” He did all of that without smiling. Well, if the Deputy Premier is talking to any Albertans for feedback and he's being buttressed in that conclusion or opinion, then he's certainly getting a response very different from members of the Liberal caucus.

Bill 66 is woefully transparent, Mr. Chairman, and I eagerly await the judgment of Alberta electors.

Thank you.

8:40

MR. KOWALSKI: Mr. Chairman, I know that we're dealing with amendments here in committee. The Member for Calgary-Buffalo just a few minutes ago was giving a speech that I guess unfortunately he chose not to give last week.

I'm just really, really pleased we have *Hansard* in the province of Alberta, because I would like to inform the hon. Member for

Calgary-Buffalo that one of the great privileges we have in this Assembly is that people should be here when in fact we're dealing with the business of the Assembly when it is there. On Friday last we were dealing with second reading. I note that in the standing of those who voted against scrapping the MLA pension plan – there were a number of people there against retroactivity, but I would like everybody to know the hon. Member for Calgary-Buffalo was not there. When it comes to allowing the people of Alberta to know what is happening in the province of Alberta, the Member for Calgary-Buffalo should be very, very cognizant of the fact that his constituents will know he chose not to vote against scrapping the plan or against retroactivity.

MR. CHAIRMAN: The hon. Member for Edmonton-Kingsway.

MR. McEACHERN: Thank you, Mr. Chairman. I cannot resist getting in a few comments on this excellent amendment by my colleague from Edmonton-Strathcona. The suggested amendment would roll the pension benefits for each member of the Assembly back to the March 20, 1989, level; that is, the level they were at before the election. Now, it's clear that when the government decided to take the 30 percent pay raise, they also decided they really wanted to increase the pensions of a lot of their members just after that election. They increased the amount of pay for work on committees and decided to make pay for committee work pensionable. That is why the pay raise was 30 percent but in some cases the pension benefits gained by some members, on the government side particularly because they get much more committee work and particularly chairmanships of committees, went up close to the level of 40 percent.

Now, the other day the Deputy Premier from Sherwood Park tried to claim there was an important contract between the people of Alberta and the MLAs in terms of pay and pensions. I say that that was not true. I made some of the points the other day, but I'll just hit the highlight points. I'm quite certain that nobody in this Assembly went out knocking on doors and said to the people in the 1989 election, "If you elect me, I intend to take a 30 percent pay raise and a 40 percent hike in pensions," and then shook hands with them and the person said: "Oh yes, I'm glad to do that for you, Mr. Elzinga. All you need to do is get yourself elected and, sure, I'll pay up. That's a good contract with me." I'll bet there isn't one person in Sherwood Park that would agree Mr. Elzinga did that with his constituents, so clearly there was no contract. Retroactivity is not a hardship, then, to the people of this Assembly, and certainly I wouldn't consider it a hardship for myself. Clearly that argument fails.

Now, were there some legal impediments? We showed that that argument failed. At first, that's what the Premier said, that there were legal impediments and some people talked about suing. Clearly those ideas were brushed aside as not significant and not important by a number of authorities, and everybody has given up on that.

Was it moral to retroactively take away pensions from members? We've talked a lot about that, and as the Deputy Premier from Barrhead indicated, a lot of people have agonized over it from a number of different directions. I would like to point out that in the negotiations with the public services pension board and the local authorities pension plan people this government didn't have much in the way of qualms about insisting that some of those workers make up for some of the past sins of the government in not funding the pension plans properly. In other words, there was an element of retroactivity in the settlement of those pension plans: now you're going to pay in the future for the sins of the past. Nonetheless, the fact that the government hadn't done its thing in

terms of matching dollar for dollar and seeing to it that the pension plans were properly funded ended up in effect causing some retroactive hardships on some of the people in those pension plans, and it didn't seem to bother the government to do that. They bargained very hard, as a matter of fact, to make sure that the pain was shared with those workers and not just picked up by the government and the taxpayers.

Mr. Chairman, the amount of rollback is disturbing. If you are going to accept retroactivity, then it surely should be enough to be worth doing. That is, I guess, the point that bothers me most about the government. In effect, the amount that the government is going to roll back the pensions is minimal. They're just going to roll back the last four years, from a 4 percent level to a 3 percent level. In terms of somebody that's had 20 years of service or 15 years of service or even 10 years of service, that will amount to very little.

Mr. Chairman, the amendment proposed by my colleague says that's not sufficient. If you are going to accept the retroactivity principle, then you have to correct the problem that led you to accept the retroactivity, in this case, and apply it. If you go talk to the people of Alberta – and you'll get your chance in the election, I guess, that we expect in a short time – you will find, I think, that most of them don't think that \$4,000 on an \$83,000 pension is adequate, that that much of a reduction is not enough, that they really expect a large chunk of the pensions to be taken back because they are excessive. That's clear, and that's what the population has told us. At the door every person I talked to is aware of the pension issue. If you guys have any hope of getting elected again, I'm telling you that the percentage reductions you've got are not good enough. The smoke screen of saying, "Well, those of us that were elected in '89 shall not have any pensions" is not going to work either.

There was a criticism by the Member for Edmonton-Meadowlark of our Bill and our original proposal – that was Bill 364 – which included some things other than pensions, and I'll get back to that a little later. Our suggestion there was, I admit, a rough cut idea that would have reduced pensions back to a 10-year maximum gain rather than the 20 years' accumulation that is now allowed. It was a simple formula and an easy way to address the issue, mainly to make sure that the people of Alberta could understand that we were really serious about having a major cut to the pension benefits of those people retiring and walking away with the big golden handshake. Now, the Member for Edmonton-Meadowlark pointed out, rightly so, that those of us that were elected in 1986 – and that included him – would then not be hit by that rule. Therefore, he said: oh, what terrible New Democrats. We were just looking after ourselves. I would point out that it would have hit our leader and it would not have hit him, just as it would not have hit some of us.

What I would like to point out is that the other part of our Bill said that future pension benefits for all of us, including those of us that were elected in 1986, would be based on a contributory system that we would have set up by an independent commission. If we form the government at the end of this election, we will set up an independent commission that will be instructed to look at a contributory pension plan system where the contributions from the members, matched by the government, will fully fund any benefits that accrue. That will be much different than the beneficial pension plan that the government has now, where the contributions by the MLAs are not enough, even if matched by the government, to fully fund the liabilities of the pension plan or the benefits to the members that retire in the future. Mr. Chairman, I would point out to the Member for Edmonton-Meadowlark that in fact

our plan would affect all of us from the date that the committee would report on.

8:50

Mr. Chairman, I said that there was no contract, that there were no legal impediments to the retroactivity we're suggesting. The moral dilemma has been fully debated, and it's been decided, even by the government, that it is a moral thing to do, to roll back those pensions. Now, they've chosen to only roll them back a tiny little bit and to throw out the smoke screen of no future pensions to try to hide the fact that they were not prepared to roll back those pensions adequately, but I suggest that the other consideration is a political consideration. We are supposed to be living in a democracy. The people of Alberta did not condone the 30 percent pay raise and the attendant nearly 40 percent increase in pensions that some people were able to accrue over the last three or four years. So the people of Alberta have spoken, and they have said that it's not good enough what you've been doing; you have to change that. The government has accepted that and said, "Okay, we will change it." But the change is not anything like adequate.

The people of this province, like most of the people of this country, have decided that politicians are not trustworthy, and I for one find it very difficult and very embarrassing when people think that all politicians are a bunch of crooks. I've prided myself on door knocking in my riding and telling people where I stand and what I believe in and telling them honestly what I will do and say when I get to the Legislature. They have elected me on that basis, so therefore I feel free to fight for those things which I said I stand for. I've not reversed myself or changed my mind on any of these issues, so I find it embarrassing when governments of this country – and they've been mostly Liberal and Conservative governments across this country – have brought politics into such disrepute that people somehow wish that we could have a democracy without having politicians.

Now, of course, that's impossible, and what that means is that each of the citizens of this country has to take a look at their politicians and their political parties and they have to understand that personalities don't matter a great deal in terms of who's leading the party. If you just think about the difference between the three Tory Premiers that we've had in this province in the last 20 years, you couldn't find three more different people, but the policies are all the same, and the way of treating the electorate is the same. It's an elitist view that says that if you want to take a pay raise for MLAs, you do it in 1986, right after the election, and then you don't do anything more for two or three years until right after the next election. Then you take a 30 percent pay raise and a big hike in pay for committee work and a big increase in pensions and big expense allowance increases, and that's okay because you hope that the population will forget in three or four years and elect you anyway. It's that kind of cynical politics that has led the people of this country to turn down the compromised Constitution in the referendum back in the fall of '92.

If you people on the other side of the House, if you people in government, don't understand and don't realize the depth of disillusionment and skepticism about politics and politicians that is out there, then you're going to be in for a rude shock in this coming election. In fact, the Premier has said that the reason you have accepted the retroactive principle is because your candidates are getting a rough time at the door. Well, what he has done to try to solve the problem is nothing more than a little shell game. The Premier has said, "Oh, we'll take 5 or 10 percent off of those guys that are retiring, and I'll take a hundred percent cut," as if it's a big deal and as if we all should cry for him. It's his choice. If he's going to do it, then quit crying about it or quit bragging

about it and just live with it. That's not where the problem is. The problem is with the size of the cuts to the people that are walking away with the golden handshake, and those changes are not adequate.

Now, we on this side of the House put out a paper some time ago dealing not only with pensions, but we said all the pay and benefits of MLAs should be decided by an independent commission. Finally, the Premier in the heat of the debate was quoted in one of the papers as saying, "Yeah, maybe an independent commission isn't a bad idea." How long and how many times have we said that in seven years? Finally, when he gets enough heat, then he says that, oh, you know, maybe that's not a bad idea. He talks about talking off the top of his head and, boy, does he ever. In fact, he opens his mouth and says what's on his mind, and if he doesn't change his mind within two days and say just the opposite, it's simply because some reporter asks him an astute question and he changes his mind within two minutes. I've never seen a Premier so flip and so ready to just sound off the top of his head and just yap away about anything and everything with no rhyme or reason or thought behind it and then a few minutes later or a few days later just say the opposite and think nothing of it.

We have no idea if this government is prepared to take up the idea of the independent commission in any way, shape, or form. Maybe it will show up in one of their platforms in the election. I hope so. I hope it shows up in the Liberal platform, because if we get everybody doing it, then whichever one of us gets elected will be able to have an independent commission look at the pay and perks of MLAs.

Now, the issues of the pay, the expense allowances, the pay for committee work, the pensions have all become such hot items over the last few years – and we've got to go around on each and every one of them – that we couldn't just leave it to an independent commission and say, you know, "Just go ahead and do what you like," in case the independent commission came back with a benefits pension plan instead of a contributory pension plan. So we have given them some instructions. If we form the government, we will set up a commission, and there are some instructions for that commission as to what they should do with the pay and the benefits, the expense allowances, and the pensions for MLAs. There are guidelines that are very reasonable, and that is what MLAs should be living with.

When I got elected, I didn't get elected to see how much money I could make. I got elected because I had some ideas about how we could run this government of Alberta in a way that would be fair for all the people of Alberta. It took me 10 years to get elected. I've been telling you guys for seven years what I think should be done. It's now time for us to form a government and put into practise some of the things that need to be done, and that's what we're going to go out and do. We're going to go out and win the next election. You guys are going to lose it if you don't amend this Bill and make those cutbacks on the pensions in the neighbourhood of 30 or 40 percent, like the people of Alberta want, rather than the 5 or 10 percent average cuts that you made.

So, Mr. Chairman, I urge the members on the government side in the strongest possible way to accept this amendment from the Member for Edmonton-Strathcona.

MR. CHAIRMAN: The hon. Member for West Yellowhead.

MR. DOYLE: Thank you, Mr. Chairman. I, too, stand to support the amendment from the Member for Edmonton-Strathcona. The other night I couldn't help but check through the *Hansard* with disbelief at statements made by the Member for Smoky River. He finally took his place in the Legislature and tried to say that the

Member for West Yellowhead or the New Democrat caucus cared not for the valuable service that was given for many years by many members in this Legislature. That indeed was not the intent nor was it the feeling of the members of the New Democratic caucus. We well appreciate the many years of hard work and dedication that these members have put in. It really has nothing to do with the amount of pension they should have. The redress of the pension plan has in itself changed the amount of money that many members of this Legislature are getting. Indeed, there's nothing wrong with adjusting the rates that members for many years have paid. Indeed the Member for Smoky River, Mr. Chairman, submitted that these people have paid into the pension plan for 22 years. It's very obvious to me that the Member for Smoky River knows very little about the pension plan, because after 20 years nobody pays any more into it.

9:00

So speaking to the amendment, most members have raised already in our caucus the fact that there was a 29.9 percent increase shortly after the 1989 election. I know well, from serving on municipal council, how difficult it is for elected persons to have to deal with their own salaries and set their own rates. Generally, Mr. Chairman, in municipal councils those rates are set in the month prior to the elections, every third year in the fall. It makes it much easier for people who are running to understand the formulas, and it assists the new administration to get on with the business of the day without being concerned about dealing with the issue of pay raises for themselves. The government in its wisdom decided to raise not only the salaries for MLAs shortly after the March 1989 election, but with that it gave that 40 percent increase to the pension fund. So it's only fair that the pension fund should cut deeper and go back to the salaries of prior to 1989 and the amount they were putting into the pension fund prior to that.

[Mr. Main in the Chair]

The Member for Lethbridge-West made some very good arguments in regards to the changes in the pension plan, and I would hope the government would listen to his recommendations and other members that stand up and speak on behalf of their ideals in this legislative body. Of course, it's disheartening to us and to Albertans that closure has been called on this Bill, because it would only be fair that all members of the Legislature stand in their places and make their intentions known.

On that, Mr. Chairman, I would ask all members of the Legislature to support the amendment brought forward by the Member for Edmonton-Strathcona.

MR. DEPUTY CHAIRMAN: The Member for Edmonton-Calder.

MS MJOLSNESS: Thank you, Mr. Chairman. I rise this evening to also add my support to this amendment sponsored by the Member for Edmonton-Strathcona.

We're talking here of a very important principle, and that is that of retroactivity of MLA pensions, going back to March 20, 1989. Another important principle, I think, in this debate is just a very simple principle of fairness. We're talking about fairness, Mr. Chairman. Now, we know that the Premier is trying to defer attention to the fact that MLAs will no longer get a pension. He has said publicly that now he is giving up his pension, and isn't he wonderful for doing this? But the real issue is that all the retiring MLAs are getting away with a pension that varies in amount, granted, but is quite lucrative for many. When I look at the

figures of some of the MLAs and what they will be making in a pension, they will be making more than a lot of people make as a salary when they're working full-time. When we take a look at some of the members – and I'm not going to get into specifics – we see that some members will be making \$71,000 a year on their pensions, \$79,000, \$64,000, and so on. The last time that I looked, I think the average salary for someone working full-time in the province was around \$40,000. That was a couple of years ago. Now, that could have increased, it could have decreased a bit, but I would say that that's approximately the average.

So when we take a look at the amounts of pensions that certain MLAs will be able to attain, I think we first of all have to ask ourselves: why is it that people need so much money in the first place? Now, usually when people are retiring, we think of seniors. Seniors are usually retired. We look around this Assembly at people that are retiring from politics. They're not seniors, yet they're going to be making these kinds of pensions. So one has to ask oneself: is this fair? Of course it's not fair. Some seniors I talk to that are retired are living on \$12,000 a year. Some of them are living on less, some on a little bit more. Some have saved all their lives and then have a bit tucked away for times when they need it.

I can't help but wonder why certain people need such high incomes in the first place. It's not that they're a salary even; I mean, we're talking pensions. I just worry that so many of the government members, if they're not going to support this particular amendment, cannot relate to their constituents in their ridings, because the average person working nowadays is not making \$79,000, \$64,000 a year. Oftentimes you've got two people in a family working to even make \$40,000 a year, and this is the reality out there that we're talking about. I get very distressed when I look at these numbers. I know in the past we had a Premier that stated publicly a few years ago that he was having difficulty making ends meet on \$100,000 a year. Now, I don't know if we're supposed to be sympathetic to this kind of admission, but I still don't think it's fair that MLAs retiring can walk away with such high pensions. To me, Mr. Chairman, the underlying message here is that we're an elite group here. What happens to average Albertans doesn't matter. We don't care, because as long as we take care of ourselves, well, that's what's important. I know that a lot of us in this Assembly don't believe that, but certainly when you take a look at who's walking away with what, the public has to be very, very cynical towards politicians – and they are – and what's going on right here in this Assembly.

Mr. Chairman, I would say again that government MLAs are not relating to average Albertans when they can sit here and support their Bill and not support this particular amendment. I worry about that, because when we look at how many people are unemployed, for example – and I'm not suggesting that I would want people to have to be unemployed and go on social assistance eventually, which happens to many people – we've got 140,000 people unemployed in the province. How much income do they make? How much income do they make when they can't find a job and eventually have to go onto social assistance? I mean, this is what's happening in the real world, and it's a shame that MLAs in this particular government can't see what's going on.

Now, I know that they get very irate even when you bring up the subject of retroactivity. All of a sudden they've got principles, Mr. Chairman. Normally in day-to-day policy-making and the passage of policy in this Assembly, I don't see many principles, but all of a sudden when it comes to retroactivity: "Well, it's against our principles to do this. I mean, have you ever heard such a thing, that we might actually have retroactivity? No, that's

just against our principles, Mr. Chairman." Well, if you take a look at some of the constituents that I have to deal with day to day, a single mother, for example, trying to make ends meet on a limited income, trying to pay for child care and all the other expenses that she incurs, she has to pay taxes and she does not necessarily even pay into a pension plan, let alone walk away with the kinds of pensions that these MLAs are walking away with.

Let's look at farmers. A lot of MLAs in this Legislature, Mr. Chairman, represent farming, rural Alberta. Let's take a look at farming income. I've heard recently that the average farmer's income is back to where it was in the 1970s, and I've had farmers say to me, "Why don't you MLAs roll back your wages to 1970 so that you know exactly what it feels like?" The minister of agriculture is just sort of chuckling over there. Well, I would challenge him to go out and talk to some farmers and see exactly what their income is if he doesn't believe this.

Mr. Chairman, we're not talking about rolling pensions back to 1970. We're talking March 20, 1989, not so long ago, something that could be very easily done. I mentioned earlier that people are cynical towards politicians. Ignoring the fact that so many are walking away with such huge pensions does not help the situation in terms of gaining respect for politicians.

9:10

Bill 66 protects a group of retiring MLAs, Mr. Chairman. That is very clear. Again, I say that there are various amounts of pension money involved. However, some are quite significant. I think anyone here in the Legislature can see that. I think our amendment is a very fair one. It speaks out on behalf of many Albertans who will never have a pension; many don't even have a salary. That's the reality. So I think when we take a look at who we are supposed to be representing in this Legislature, I have to wonder: who exactly is it that the government is representing?

I suppose I'm a bit naive to think that they might pass some fair legislation for a change, that they might take a look at this amendment and see its fairness, because they've never done that in the past. But I have faith, and some of them are actually listening. I look forward to them standing up and speaking out for this particular amendment, because it makes sense. It's fair. It's fair to those Albertans out there that are struggling to make ends meet. I hope that the government members see the light and support this particular amendment.

MR. DEPUTY CHAIRMAN: Is the committee ready for the question on the amendment?

The Member for Cypress-Redcliff.

MR. HYLAND: Thank you, Mr. Chairman. I'd like to make a few comments on the amendment before us. I've been on the Members' Services Committee probably 12 years, my last 12 years of serving in the Legislature, so I've been through a number of these changes related to salaries and I've been through a number of the changes related to pensions. I can remember in the Members' Services Committee prior to 1989 serving with the hon. Gordon Wright and being in agreement with his feelings once when the salaries were increased. He stood against his caucus because he believed in his heart that the amount of money we were being paid was reasonable at that time. Between him and myself we made a motion in Members' Services Committee that those who didn't feel the salary was right could sign a declaration, file it with the Speaker, and they wouldn't take the salary increase. In the meantime, opposition members stood up, member after member after member, berating the salary increase, saying what a terrible thing the government was doing. Mr. Chairman,

what happened? Everyone took it. Nobody signed the declaration or the waiver.

MR. BOGLE: How many?

MR. HYLAND: Nobody.

After the 1989 election we heard lots of stories, lots of speeches, lots of spread in the paper about that terrible government that raised the salary 30-plus percent. And what happened? In that same Members' Services meeting all parties made certain motions, the largest increase being made by the Liberal member for his leader. I made the same motion, that members could file with the Clerk declarations and they wouldn't have to take the salary increase. What did they do? Everybody took the salary increase. Everybody. Some claim they have given it back. I have never seen any proof from any of them that they've given it back. Some claim they have given it back, but, Mr. Chairman, they still get the benefit of it. If they're vested for pension, they would still get the benefit of that income.

Now we again have an amendment taking the calculations back to the 1989 level. I'd wonder how many of those members are sitting over there hoping that the government won't accept that motion, simply because they don't want to lose that. They won't accept the amendment because they don't want to lose that, but they play the game of making their spiel, just like they did on the salaries twice and took it, hoping that this motion wouldn't pass. If the members are serious about their thoughts on this, or those that do qualify in the event that they're not running or don't get re-elected, why don't they file with the Clerk or with the Speaker a declaration saying: "If and when we ever do qualify for a pension, we don't want the money. Give it to somebody else. We don't want it." Where are they, Mr. Chairman? They're afraid to do it. They like to talk, but they're hoping that their bluff won't be called, because they'll slip it in their pocket and walk out, just like they always have. So, Mr. Chairman, this is just a show.

I encourage members to defeat the amendment.

MR. DEPUTY CHAIRMAN: The hon. Member for Edmonton-Beverly.

MR. EWASIUK: Thank you, Mr. Chairman. I, too, want to rise to speak in support of the amendment. Certainly it's an amendment that I think is going to go a long way in resolving the problem and dilemma that constituents throughout the province of Alberta are having. There are two things here that in my opinion have raised this whole issue and raised the ire of the people in the province. First of all had to be the 30 percent salary increase, and now the whole issue and area is being compounded by this Bill 66.

Mr. Chairman, I also want to say, as the Member for Vegreville has said, that I recognize and I respect all the members of this Assembly who in my opinion are here to serve their constituents of the province of Alberta to the best of their ability. I believe that when people let their name stand to be elected, they do it with the understanding that they are going to dedicate their time and energies to serve those who elected them. So when we have an issue like this pension issue, it's rather difficult to make comments as we have had to make in the last little while that Ralph lifted his Bill. But I believe fair is fair, and I think comments have to be made.

The difficulty that my constituents have with this proposed Bill 66, Mr. Chairman, is that they somehow see the unfairness in it. The men and women in Edmonton-Beverly are all hard-working, and they understand putting in a hard day's work and getting a decent salary as a result of their work. They understand also that

people who spend their time toiling, wherever this might be, somehow have to put something away for their retirement. A lot of my constituents, as well, do not have that luxury of having been able to work continually and receiving a good salary. Many of them, of course, experience being on unemployment insurance and in some instances have to resort to the social assistance program to help them through their lives. So when they look at the kinds of things that are happening here, the kind of benefits and salaries that we are making, I can appreciate their cynicism and perhaps some degree of disrespect for this Assembly.

Mr. Chairman, they do understand that there are pensions, that people who are fortunate enough to be working can indeed contribute to a pension. The underlying word here is "contribute." They understand that you have to work and make a contribution to your pension in hopes that when you do retire, there will something for you. The difficulty is that most of them work their entire adult life before they qualify for a pension, and that's not the case here in the Legislature. We unfortunately or fortunately, whatever that might be, do qualify for a pension after only five years' service in this Legislature. That's difficult for many people to understand. Also, all people in the public sector or wherever they work: their pensions are based on the contributions that they make, and therefore there's a real problem to comprehend how MLAs can draw a pension immediately upon leaving this Assembly. The real problem is that these constituents of mine, with whom I've talked more recently, are suspicious that somehow there's a connection between the 30 percent salary increase and the pension issue that we are dealing with today. Unfortunately, and I regret to say, I tend to agree with that suspicion.

9:20

I believe that this amendment removes those concerns that somehow there was a plot in this Assembly to fatten our own pension plans. I believe that this amendment, should it pass, would clear the air and remove any of the cynicism and disrespect that the people in this province have for the way the situation is being handled. Mr. Chairman, I believe this amendment will go a long way in clearing the air, in ensuring that the people in the province of Alberta can regain some trust that the members in this Legislature are not concerned about increasing and walking away with a fat pension, that they are more concerned about ensuring that there is employment in this province, that there is good health care and good education.

Mr. Chairman, I certainly urge the members of the Assembly to support this amendment. I believe it would go a long way in improving the stature of all of us in this Assembly with the people of the province of Alberta.

MR. FOX: I just wanted to make a couple of points, Mr. Chairman. There has been a little bit of debate here. The Member for Cypress-Redcliff said that he was going to vote against the amendment here because as a member of the Members' Services Committee he was there in 1989 when the decisions were made with respect to the salary levels that are currently in place for MLAs, cabinet ministers, House leaders, Whips, and assistant Whips in the various 'cauci' - if that's plural for caucus.

I'd just like to challenge some of the assumptions that he made. Yes, those salaries are in place. Yes, all members of the Assembly collect those salaries. But he's missing the important connection between those salaries and the pensions here. The Member for Calgary-Buffalo outlined briefly the history of the MLA pension plan dating back to 1969 with the amendments several times during the 1970s. Well, I would submit that that MLA pension plan was in reality a deferred-income scheme concocted

by elected members to camouflage the fact that the job was undervalued, that members did not make very much money for the work that they did. Rather than confront that issue directly, they concocted a deferred-income scheme through the MLA pension plan.

It really didn't become an issue until 1989, when the salaries in place for MLAs and cabinet ministers became more or less commensurate with their responsibilities, and that's been confirmed by the Peat Marwick report. It's our contention that because of those salary bumps in 1989, we've got a situation where the pension benefits are dramatically out of line with reality, where MLAs' pensions, in spite of the phony little cuts to pensions that the Premier has announced in Bill 66, are clearly out of line and out of touch with the real world. We want this amendment passed so that the pensions that are in place for retiring and defeated MLAs are fair and reasonable.

I would hope that government members would vote with us, at least in part, when this comes for a vote, let's say, almost immediately.

MR. DEPUTY CHAIRMAN: Is the committee ready for the vote, then, on the amendment as presented by the Member for Edmonton-Strathcona?

HON. MEMBERS: Question.

MR. DEPUTY CHAIRMAN: I've heard the call for the question. All those in favour of the amendment that is before the committee, please say aye.

SOME HON. MEMBERS: Aye.

MR. DEPUTY CHAIRMAN: Those opposed?

SOME HON. MEMBERS: No.

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

[Eight minutes having elapsed, the Assembly divided]

9:30

For the motion:

Chivers	Ewasiuk	Hawkesworth
Dickson	Fox	McEachern
Doyle	Gagnon	Mjolsness

Against the motion:

Ady	Hyland	Paszowski
Anderson	Isley	Payne
Black	Jonson	Rostad
Bogle	Kowalski	Schumacher
Cherry	Laing, B.	Severtson
Clegg	Lund	Tannas
Drobot	McClellan	Weiss
Elliott	McFarland	Woloshyn
Evans	Moore	Zarusky
Gogo	Orman	

Totals:	For - 9	Against - 29
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[Motion on amendment lost]

MR. KOWALSKI: Mr. Chairman, I would move that the committee now rise, report progress, and beg leave to sit again.

MR. DEPUTY CHAIRMAN: Those in favour of the motion made by the Government House Leader, please say aye.

[Motion carried]

[Mr. Speaker in the Chair]

MR. MAIN: Mr. Speaker, the Committee of the Whole has had under consideration certain Bills. We report progress on Bill 66. I have copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

MR. SPEAKER: Having heard the report, does the House concur?

HON. MEMBERS: Agreed.

MR. SPEAKER: Opposed? Carried.

head: **Government Motions**
Breach of Privilege

39. Moved by Mr. Kowalski:
Be it resolved that the Legislative Assembly refer the Speaker's finding of a prima facie breach of privilege as raised by the Member for Camrose to the Standing Committee on Privileges and Elections, Standing Orders and Printing to determine the appropriate action to be taken with respect to the Member for Calgary-Buffalo.

MR. KOWALSKI: Mr. Speaker, it was several days ago that oral notice was given dealing with Motion 39. I would just perhaps have written into the record a series of events that occurred. It's my understanding that on April 22 the Member for Camrose gave oral notice that he wished to raise a matter of privilege. Such a matter of purported privilege was raised on April 23, 1993, and on April 29, 1993, Mr. Speaker ruled that a prima facie case of privilege had occurred.

Mr. Speaker, oral notice was moved several days ago, and tonight I now move the motion.

SOME HON. MEMBERS: Question.

MR. SPEAKER: A call for the question on the motion.
Calgary-Buffalo.

MR. DICKSON: Thank you, Mr. Speaker. My understanding under the rules is that I have an opportunity to speak to this. I can say that when I was elected as the Member for Calgary-Buffalo some nine months ago, I could not have anticipated that nine months later I would be in the position of having to defend myself for asking a question in the Legislature. The question I did ask, a question I still view as straightforward, a question which expressly did not touch on the motives or intentions of the former Attorney General, but nonetheless a question which I viewed at the time and continue to view as vitally important to the integrity of our judicial system.

Now, notwithstanding your finding, Mr. Speaker, of April 29 – and I say this with the greatest respect – I remain convinced that I had a duty as the Justice critic for my party to raise that question. This proceeding, this particular initiative of the Deputy Premier serves, in my view, only to distract attention from the bigger issue, the issue of whether the former Attorney General should have intervened in the fashion he did in the sentencing of a constituent, the constituent convicted of sexual interference with

a 14-year-old girl. I respectfully submit, sir, that shooting the messenger is no appropriate response to that bigger issue.

Mr. Speaker, I've only been a member of the Legislature for some nine months, but I've practised law in Calgary for some 22 years. In the course of my practice I've had the opportunity to watch with some interest the proceedings in this Legislature. I guess I've always been struck by certain characteristics of the parliamentary system. Chief among those are the facts that the system promotes, encourages, and protects robust debate; it promotes a high standard of accountability on the part of ministers; it promotes and recognizes a clear separation between the judiciary and the executive and legislative branches; it customarily respects a strict policy of noninterference by legislators with the judiciary. This initiative of the Deputy Premier will move us in the other direction. This move will have the effect of discouraging debate, of discouraging tough questions. It will do nothing other than diminish or relax the standards of ministerial accountability. This kind of initiative that is brought in by the Deputy Premier will create a kind of chill, a chill wholly inconsistent with our parliamentary tradition.

9:40

I'm grateful, Mr. Speaker, for the substantial support I've received from constituents and from a significant number of Albertans who have expressed their support for my stand.

I'm disappointed that the Deputy Premier, sir, last Tuesday at 5:28 p.m. sought unanimous consent to deal with this motion, knowing full well at the time that I wasn't present. I know that there are members of this House from all three parties who recognize that the initiative that's in front of the Chamber now is in effect a heavy-handed attempt to bully or to intimidate an opposition member. Well, Mr. Speaker, I have no intention of being cowed. I have no intention of being intimidated.

Article 28, page 12 of *Beauchesne's Parliamentary Rules & Forms*, sixth edition, is authority for the proposition that, firstly, the allegation against me is an exceedingly serious one; secondly, that I ought not to be deprived of "the safeguards and privileges which every man enjoys in any court of the land." So I look forward, Mr. Speaker, to the opportunity to make my full answer in defence. I look forward to the opportunity to exercise my right to counsel, my right to cross-examine my accuser, my right to call expert witnesses, and these would be expert witnesses not only on the role of an opposition in question period but perhaps more importantly the propriety of former ministers making representations to members of our judiciary with a view to influencing a judge in the course of sentencing an offender, sir. So I look forward to the opportunity to exercise those rights fully in front of the committee in the event that this motion passes.

There's authority, sir, for the proposition that a motion referring an alleged matter of privilege to committee must be unambiguous and must contain specific allegations or quotations. I rely on the decision of the Hon. Alfred Wallace Downer, Speaker of the Ontario Legislature, March 25, 1959, the *Ontario Journals*, page 184; the *Debates*, pages 1749 to 1751.

So, Mr. Speaker, what's the specific allegation before us that's going to be referred to the committee? Well, my respectful submission is that the motion of the Deputy Premier is clearly deficient in that respect. The only allegation that can be referred to the committee in my submission, sir, is the allegation made by the Member for Camrose in his correspondence to the Speaker of April 22, 1993. That charge or allegation is, and I'll quote his words:

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.

You've made no contrary finding, Mr. Speaker, so I take it that that is the matter for the committee to deal with.

We might define the two issues, then, in this sense. Number one, did I imply a motive; namely, that the Member for Camrose was attempting to influence a judge? I note with some interest, sir, that the Ethics Commissioner found that was precisely what the member was doing by his correspondence. The letter of the Member for Camrose, which was part of the public record, also speaks for itself.

Secondly, the other issue would be that if the answer to the first question is in the affirmative, then was my allegation false? I just quote, sir, a report of the privilege committee of the United Kingdom House of Commons, June 19, 1964, which says, and I quote:

Your Committee recognize that it is the duty of the House to deal with such reflections upon Members as tend, or may tend to undermine public respect for and confidence in the House itself as an institution. But they think that when the effect of particular imputations is under consideration, regard must be had to the importance of preserving freedom of speech in matters of political controversy and also, in cases of ambiguity, to the intention of the speaker. It seems to them particularly important that the law of parliamentary privilege should not, except in the clearest case, be invoked so as to inhibit or discourage the formation and free expression of opinion outside the House by Members equally with other citizens in relation to the conduct of the affairs of the nation.

Of course, what we have here is a question asked not outside the House but in the House, and I submit that's all the more reason why there's no proper case.

Finally, sir, section 22(6) of the Conflict of Interest Act provides that

where a matter has been referred to the Ethics Commissioner under subsection (1), (3) or (4), neither the Legislative Assembly nor a committee of the Assembly shall inquire into the matter.

Motion 39, in my respectful view, is in conflict with section 22(6).

Sir, my intention is to vote against Motion 39, and I encourage all members concerned with the integrity of our parliamentary system to also vote against the motion.

Thank you.

MR. SPEAKER: Calgary-Mountain View.

MR. HAWKESWORTH: Thank you, Mr. Speaker. I'll just make a few comments here tonight in regards to Motion 39 as I understand the process that will evolve here. First of all, Mr. Speaker has not found that a breach of privilege has occurred. All that Mr. Speaker has done is determine that a prima facie case of breach of privilege exists; that is, on the surface of it, he has satisfied himself that there is enough evidence to justify further pursuit of the matter, not that in fact a breach of privilege has occurred.

I'm not a lawyer, but my concept is that it's sort of like having a preliminary hearing to decide whether there's enough evidence to commit to a trial, and having decided as a result of a preliminary hearing, the matter is now being committed to a trial. As I understand it, only the Legislative Assembly can determine whether a breach of privilege has occurred, and it is being asked by this motion to have the committee review the matter, conduct a sort of trial, and then bring back a decision or recommendation to this Assembly whether in fact a breach of privilege has occurred and, if so, what action should be taken in that regard. At that point, the Assembly would have the opportunity to debate the recommendation from the committee. That's my understanding of what's to take place. I would not imply or it should not be

implied that there's guilt here in any way other than on the face of it as determined under our Standing Orders of the Assembly.

While I may not agree with that finding, nevertheless, having had that finding determined, I guess now the appropriate action is to send it to trial, so to speak, to the standing committee, and have a full airing so both members can have a full and exhaustive and appropriate review of the situation and be able to pursue it in a form that's not available to us in this Assembly. That's what I understand is to take place, and that's what I understand the process to be.

My understanding is that supporting the motion does not in any way, shape, or form predetermine or pre-imply or align oneself with a decision that in fact a breach of privilege has taken place, only that the matter – having been determined by Mr. Speaker that a prima facie breach of privilege occurred, further review, further action, and further investigation is appropriate.

9:50

MR. McEACHERN: Mr. Speaker, the reason I was slow standing up: I was waiting for somebody on the other side to give some kind of reason why we should move forward with this motion. It reminds me very much and our colleague here from Calgary-Buffalo reminded me of a previous debate in this House when Gordon Wright stood up and defended a New Democrat member from Athabasca-Lac La Biche. Now, nobody would argue that Mr. Wright didn't know what he was talking about. He argued in a learned and quiet but reasonable manner that the motion before the Assembly that day, which was referring the Member for Athabasca-Lac La Biche to the Standing Committee on Privileges and Elections, Standing Orders and Printing for some alleged wrong of having spoken a few words of French in this Assembly, which I guess was supposed to be serious enough that perhaps one should take his seat away from him . . .

Speaker's Ruling Relevance

MR. SPEAKER: Hon. member, that issue is not for debate at the moment. Your comments are with respect to this motion.

MR. McEACHERN: I'm just drawing a parallel between the debate on the motion to make that kind of reference to the committee and the similarity in the two debates.

Debate Continued

MR. McEACHERN: At least a couple of the cabinet ministers did manage to stand up. I know they sounded like grade 5 school bullies by comparison to my learned colleague from Edmonton-Strathcona in terms of the debate about whether or not the reference should be made, but at least they tried. I don't see anybody over there standing up and explaining why we should do this.

Speaker's Ruling Relevance

MR. SPEAKER: Order, hon. member. As I look at my list here, the minister was up. Perhaps there are others.

You are speaking to the motion. This is not an harangue about participation in the debate. The motion is fairly specific, and I ask you to follow that, please.

Debate Continued

MR. McEACHERN: But the problem, Mr. Speaker, is that there is no specific charge against the member. So why is this being

done? What has the member done that was wrong? What is the case against him? It's sort of like saying: go see if this guy did something wrong. What's the charge? There should be one.

AN HON. MEMBER: You're embarrassing yourself.

MR. McEACHERN: Well, I'm sorry. You guys should be embarrassed, because you've come to the conclusion that what is not good for the Tory party is wrong and what is good . . .

MR. SPEAKER: Order please, hon. member. Take your place.

MR. FOX: Did you hear what they're saying?

MR. SPEAKER: Order. I'm trying to get order from the whole House.

Yes, I heard what they are saying, Member for Vegreville.

Now, perhaps Edmonton-Kingsway will continue with Motion 39.

MR. McEACHERN: Certainly, Mr. Speaker, it is my intention to vote against this motion because I think it's unfair and unreasonable. It is in effect threatening to take away this member's seat in this House, which he won by election, if the committee should find something or some reason they should or shouldn't, yet there is no specific charge he can defend himself against, at least not at this stage. It seems to me if the government is going to refer him to a committee with possible heavy penalties, they should at least specify what he did wrong and why and how and explain a little bit, and I hear nothing.

I think it's just a matter of a government trying to bully a new member of the Assembly before an election to see what they can get away with. They've been in power too long, and they're far too arrogant. I'll be voting against it.

AN HON. MEMBER: Question.

MR. SPEAKER: There's a call for the question.

Having listened attentively, I'm sure all hon. members will perhaps do a little more reading about Standing Order 15 – not only Standing Order 15, but also *Beauchesne* and *Erskine May* because there are far more ramifications than what seem to have been voiced, especially by the last presenter.

[Motion carried]

47. Moved by Mr. Kowalski:

Be it resolved that the private member's public Bill 216, Children's Access Rights Enforcement Act, be placed on the Order Paper under Government Bills and Orders.

HON. MEMBERS: Question.

MR. SPEAKER: The motion is 47 on the Order Paper. All those in favour, please signify.

HON. MEMBERS: Aye.

MR. SPEAKER: Opposed, please signify. Carried unanimously.

MR. KOWALSKI: Mr. Speaker, considerable public business has been conducted today. I would like to alert all members that the order of business tomorrow evening would, of course, be government business, and we have to continue the conclusion of the debate on Bill 66. We'll be in Committee of the Whole. It's also our intention and it may very well be that we'll first of all deal with Bill 68, the Public Sector Pension Plans Act (No. 2), but that decision will be made on the morrow.

[At 9:57 p.m. the Assembly adjourned to Tuesday at 2:30 p.m.]

