

Legislative Assembly of Alberta

Title: **Monday, April 11, 1994**

8:00 p.m.

Date: 94/04/11

head: Committee of Supply

[Mr. Tannas in the Chair]

MR. CHAIRMAN: Good evening. I'll call the committee to order. The committee is reminded of the rule with regard to standing and addressing a large or small crowd of committee members. We'd like you to do that outside the Chamber. So if people are standing and noise is occurring, we will halt the proceedings and return to order. As long as your Whip will let you out, we encourage you to go outside to carry on lively discussions.

head: Main Estimates 1994-95

Justice

MR. CHAIRMAN: We'll call on the hon. Minister of Justice to make his comments at the outset.

MR. ROSTAD: Thank you, Mr. Chairman. Could we adjourn now?

I made opening comments at the last session that we had, so what I'd like to do now is table the answers to the questions that were asked the last session that I was unable to answer and frankly remind the House that in November, which was four short months ago, we spent over eight hours in the estimates on Justice, we spent two and a half hours approximately a month ago, and we're back at it again tonight. I would hope that the questions would be very succinct, and we could adjourn early tonight.

SOME HON. MEMBERS: Question.

MR. CHAIRMAN: I have a member standing. Calgary-Buffalo.

MR. DICKSON: Thank you, Mr. Chairman. I don't know; after the opening comments of the minister it occurred to me that when he first stood and addressed his estimates in the fall of 1993, I remember him going on and telling us how important his department was, reminding us – perhaps he didn't, but the message was clear – that his department was responsible for more than a hundred different statutes in this province. So I just tell the minister that there's good reason why we're happy to engage him in Committee of Supply dealing with his department, and it's simply because there are so many aspects of the government of the province of Alberta that relate to this gentleman's portfolio. We have plenty more questions, and I want to assure the minister that we'll always attempt to be succinct, but we're anxious to get responses on all of these important issues.

Mr. Chairman, the last session was on March 3. The minister at the conclusion of that session gave some responses. He responded to I think some five or six of the points that I raised, a couple of points raised by at least one other member. Now, we're in the situation again where although a month has almost gone past, we don't have responses to the other questions asked. I guess part of the challenge is that if we'd had those responses, it would allow us to move on. Not having had the response from the hon. minister, we have to overlap to some extent some of the outstanding questions from last time.

I want to make a general observation, Mr. Chairman, and I think you made a similar observation before we started the

estimates in the fall of 1993, and it's simply that I always have a difficulty, just as a matter of principle, as a member of this Assembly being asked to vote on substantial sums of tax dollars that are being allocated to the different departments, in this case Justice, when there are many legitimate, bona fide questions that have been asked of the hon. minister that are outstanding. Now, I understand that there's a process that's gone on long before I became a member of this Assembly, but it seems to me that for me to do my job responsibly, it means that when the time for the vote comes on these estimates or any other estimates, I'm really disadvantaged by not having the response to the questions asked. If we don't get the responses to the questions asked before the vote comes, then one has to ask: is anybody interested in (a) the questions or, more importantly, (b) the responses? That's an ongoing frustration I have. I hope that before I finish my time in this provincial Legislature, we'll see some change so that when legitimate questions are asked, there is some process to ensure that responses are received before the vote is put.

Now, having said that, I think it's fair to say to the hon. minister . . .

Point of Order

Answers to Questions

MR. ROSTAD: Mr. Chairman, a point of order.

MR. CHAIRMAN: The hon. Minister of Justice, rising on a point of order.

MR. ROSTAD: I'd just like to intercede. Actually, the answers to the questions that were tabled tonight were in fact the ones from the March 3 debate. We adjourned on March 31 and have not been in the Assembly for 11 days since. Otherwise – and frankly they were ready – they would have been tabled at that time. There's not a delay. If in fact you go through the *Hansard* of that and look at the questions and the number of questions and the range of areas that they come from, some very germane and some not so germane, and you undertake to answer them, it takes some time. If they're succinct and on the point tonight, I undertake that the answers will be filed before the vote is taken on this department.

MR. DICKSON: I appreciate that response from the hon. minister, and I'll be anxious to look at them before I finish my questions at the end of this evening's session.

Debate Continued

MR. DICKSON: Mr. Chairman, when I had put questions to the hon. minister some time back in early March, I had expressed a concern about the independence of the judiciary. At that time my specific concern was the appointment process. We asked questions about the Judicial Council, vacancies on the Judicial Council, and about a Canadian Bar Association report on appointment to the bench. I'm back to again talk about judicial independence, but this time my focus is not the appointment process but rather the question of compensation, remuneration for judges. You know, judicial independence is an historical tradition of this society. It's protected in our Constitution. But I'm concerned that the actions of this government in fact are threatening the independence of the provincial court judges.

Prior to 1988 the provincial government had committed to pay provincial court judges at the rate of 80 percent of the pay of federally appointed judges. Then in 1988 the provincial government unilaterally repudiated that commitment. Now, for the last number of years the government has refused to set up an arm's-

length commission to fix the compensation, remuneration for judges. So what we've had is a situation for the last at least five years where the provincial government has been fixing salaries, pension, adjusting those things, adjusting other benefits and doing so not on the basis of an agreement, not on the basis of some sort of independent adjudicative body but rather simply treating it as a regular executive function.

Now, the Supreme Court of Canada, Mr. Chairman, has declared that ensuring the financial security of judges is one of the minimum conditions of judicial independence. In fact, in 1985 the Canadian Bar Association established a special committee to report on the independence of the judiciary in this country. In that report it stated, and I quote:

One of the most obvious ways to influence a Judge is to manipulate his salary. If a Judge knows his paymasters can stop his salary if they are unhappy with his Judgments, he may be tempted to deliver Judgments to their liking. And regardless of the behaviour of the Judge . . .

MR. CHAIRMAN: Order. It was getting rather difficult to hear the cogent comments of the hon. Member for Calgary-Buffalo.

8:10

MR. DICKSON: I'm sorry, Mr. Chairman. I thought the members were just agitated and stimulated with my observations.

Mr. Chairman, just continuing on with a quote then from the Canadian Bar Association report in 1985. It goes on to say:

And regardless of the behaviour of the Judge, there will always be suspicion in the mind of the public that the Judge has been influenced. The only way to avoid this problem is to guarantee the amount and the regular payment of judicial salaries.

Every Canadian jurisdiction except for Alberta, New Brunswick, Yukon, and Northwest Territories has either a nonpartisan committee or at least a formula to review and fix judicial compensation. Now, I say parenthetically that it didn't work very well in Saskatchewan. Notwithstanding that sorry experience in our neighbour province to the east, I think it demonstrates absolutely the need that in this province we create an independent commission and then that commission be given full authority and the expressed mandate to fix compensation for judges.

I was reminded of the importance of this, Mr. Chairman, when we saw the dicta recently from Justice Feehan of the Court of Queen's Bench in this province in a case that's been mentioned frequently in this Assembly. One has to ask what kinds of constraints there are on a provincial court judge to find that the government that writes his paycheque and more importantly fixes his pay on a year-to-year basis was - I don't remember the express adjectives; I'm sure my friend from Sherwood Park has always got them on the tip of his tongue. It was to the effect that he found the government had been negligent, I think in fact had made a finding of fraudulent: powerful, powerful dicta. One has to ask what singular act of courage it would take for a provincial court judge to make a similar kind of finding or similar kind of dicta. So I'm interested in asking and getting a commitment from the hon. minister. What's he going to do to address this particular aspect to judicial independence, as important as it is?

I want to move on and talk about another issue that's of particular concern to me. It relates to this idea of the provincial court bench. There are actually a number of issues. One, it's a curious thing, Mr. Chairman, that we're seeing cuts in terms of administrative support and so on to the provincial court bench but at the same time the provincial government can find almost a million more dollars for the administration of the Court of Queen's Bench. It's a curious thing. I ask the minister to explain why we have those resources going to one level of our judiciary

when the other level of the judiciary, which is I think equally important to the citizens of Alberta, is receiving no similar additional funding.

Which brings me to another point, Mr. Chairman. I want to ask the minister whether he's considered increasing - and we still have seen no legislation in this respect - the limit for small claims court, for Provincial Court, Civil Division judges to at least \$10,000. I'm interested, and I think the minister is too, and I expect all members share this concern. What we're trying to do is make justice more accessible to low-income Albertans. We're at a time now where there's a whole raft of user fees that have become part of the consumer dilemma or challenge in 1994 in this province. A large number of people are out of work, and it seems to me that it would be a very valuable service and provide a significant advantage to low-income Albertans if we were to expand the ceiling and the jurisdiction of the provincial court.

I also want to relay another point. This is a point that's often been made by my colleague for Fort McMurray, and he may want to expand on it later, Mr. Chairman. Will the minister consider appointing at least some provincial court judges in remote parts of the province as masters in chambers? I say this as an alternative to cutting out circuit courts. Maybe what we should be doing, Mr. Minister, is attempting to make better use of the provincial court judges that we currently have in this province, clothe them with the jurisdiction, the power to be able to in a divorce case issue a substitutional service order or a service ex juris if service had to be outside the country. That would, I think, be a powerful way and a relatively low-cost way of providing better access, improved access to those Albertans in rural Alberta. So I'd like the minister's response to that proposal.

I have a particular concern with respect to family court, the family section of the Alberta Provincial Court. I'm in mind of this for a couple of things. One, I had a chance to listen to a very knowledgeable individual in terms of talking about young offender issues in this province. It was Staff Sgt. Duggan of the Edmonton Police Service, and he made the observation to me while we were speaking, a quote that he had heard that originates in Africa. It was this, and I quote: it takes a whole village to raise a child. A powerful kind of expression, and the more I thought about it, the more it made me think of ways that our provincial court in this province let children down.

Let me be more specific. The business, the proposal, the concept of a unified family court was considered by the Alberta Law Reform Institute in the '70s, by the Berger commission in British Columbia, by the Ontario law reform institute, by the national law reform institute, in Quebec the Prevost report in 1970, in 1975 the Quebec Civil Code Committee on Family Court, in 1981 in Quebec the Morin task force report. What each one of these reports found was that there are compelling arguments for trying to simplify the court system, not to accommodate judges, certainly not to accommodate lawyers, but to accommodate citizens who want to get access to their court.

You know, Mr. Chairman, and through you to the hon. minister, in Calgary, in my city, consider the range of courts. We have the citizenship court. We have the Tax Court. We have the Federal Court. We have the Provincial Court, Family Division. We have the Provincial Court, Civil Division. We've got the traffic court system now as an offshoot of provincial court. We've got Court of Queen's Bench. We have Surrogate Court. We've got bankruptcy court. All of those courts just in the city of Calgary are in eight different buildings, eight different geographic locations. Now, is there anybody in this Assembly that thinks Albertans and, for example, Calgarians are well served if they have to know where they go for relief out of eight different locations and out of all of those different courts?

What's more frustrating is that when they go to provincial court, they find that they can only get certain kinds of orders there. If it's a family law matter, which I'm more familiar with, they then find they have to go off to Court of Queen's Bench. In family law matters it's a frequent experience. Somebody will go and get a provincial court order, an order that addresses interim custody and access, an order that's delivered quickly. There's no cost. They haven't had to see a lawyer. They've been able to get the order within a day of the individual going in to see the family court staff. But you know what happens? One of those parties will have a lawyer, and the first thing the lawyer will do – and I know this because I've certainly been this route myself. The first thing you do is rush down to Queen's Bench and file a pleading there to be able to move the thing out of family court and into the Court of Queen's Bench. That's where we start seeing increased costs because you have to use a lawyer.

You know, one has to wonder about the fact that the matter has been moved to Queen's Bench. Is it because the judges are wiser at the Court of Queen's Bench? Is it because they have more life experience? Is it because somehow they have more insight into the problems that Albertans have, whether it's in family difficulty or problems with young people? Well, the reality is that it isn't. We have excellent people on the provincial court in this province, and I think it's high time, Mr. Minister, that in Alberta we consider not just another study but we consider whether Albertans would not be substantially better served by providing a unified family court.

Now, I've raised this before. This isn't a new issue between the hon. minister and myself, but I still see no forward action on it and it's still very much of concern to me. The issue for Albertans I think is one of cost; secondly, one of speedy resolution. I think that in the report on the Nova Scotia court structure March 1991, the task force adopted the principle of a unified family court. Some of the values that that body enumerated were that the court should be as simple and flexible as possible, that it should be accessible to all members of society – in reality, Mr. Minister, as you well know, the Court of Queen's Bench is not accessible to everybody, and it's certainly not speedy – that the court should provide a high degree of efficiency and should avoid the impression that there are different classes of justice delivered by different levels of courts, another problem we've got with this system.

8:20

I'd refer the minister to the Hamilton-Wentworth region pilot project, which has existed since 1977. So, Mr. Chairman, we're not talking about doing anything particularly radical. There were ample experiments where we've seen this thing work. On November 15, 1992, Howard Hampton the then Attorney General of Ontario observed that, and I quote, the current split jurisdiction between the federal and provincial courts is inconvenient, expensive, and confusing to the public.

I'd just refer the minister in this respect to the *Juvenile and Family Court Journal* 1993, volume 44, number 1, and also to two cases that I think are instructive. One is Knight v. Knight and Herringer, 132, *Alberta Reports*, page 341, also *Familusi v. Gomani* of the Calgary family court. The docket number is 115672. In that case I think it was His Honour Judge Landerkin who noticed some particular problems with section 32 of the Provincial Court Act. The problem, Mr. Minister, Mr. Chairman, and all members, is that the provincial court regrettably as a consequence of – what is it, Mr. Minister? – section 96 of the British North America Act provided that the only court with plenary jurisdiction in terms of hearing evidence at least is the Court of Queen's Bench now. The family court, provincial court

is a creature of statute and only has the jurisdiction expressly specifically mandated by statute. That's a problem, because if you look at the kinds of enormous problems and challenges faced by members of the provincial court, you will find that what they need is a much broader kind of authority.

I'll be back, Mr. Chairman; I'll be back.

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

MR. SAPERS: Thanks. [interjection] Didn't miss you, Jim.

Mr. Chairman, I'm happy to have an opportunity to speak again to the Justice estimates. First, I'd like to congratulate the minister and his department. I note that there has been a 10 percent increase in funding to the city of Edmonton alternative measures program particularly directed towards young native offenders, and it's certainly about time. I'm glad to see that that's happened, and I'm confident that there will be many more initiatives coming that will be directed at aboriginal families and aboriginal offenders.

I'm anxious to review the answers that the minister has provided this Assembly because I recall that the last time we had an opportunity to discuss the Justice estimates, there were several questions raised about the implementation of the Cawsey task force recommendations. Of course those recommendations pertained to program needs for our aboriginal Albertans. So I'll be reviewing those answers, and hopefully there'll be some substance there that will show some real progress towards the implementation of those recommendations.

Now, Mr. Chairman, I'd like to direct some comments for the next couple of minutes towards the whole program area of victims and victim services. Under the minister there is a program known as the victims' assistance program. Now, I note that in the current budget estimates there's about an \$87,000 line item for the administration of the victims' assistance program and fund, but the victims' assistance program actually has a budget much larger than the \$87,000. It administers a fund that's currently valued at somewhere around \$1.7 million or \$1.8 million, and it allocates about \$500,000 or \$600,000 a year to deserving programs. Now, these programs do cover a wide geographic base, and my comments are not really complaining about the programs that are currently funded but rather those programs which can't seem to be funded.

Victims of crime deserve a whole variety and a whole range of services. Victims' needs are as varied as the offences that they've had to endure, and it is simply not good enough to have an array of victim services that happen from time to time and are funded from place to place and that really don't move outside of the formal criminal justice system. Victims' needs are legitimate needs and need to be recognized on an ongoing basis, and they need to be seen as fully legitimate and deserving of funding that is not based on a fine surcharge. In other words, they should be core funded and they should be part of the department's budget. If not part of this department's budget, then certainly they should be recognized as a part of a stable program from another department.

Now, some of the particular problems I have with how this particular victim assistance fund is administered stem from the fact that there's an unnatural fit. While on the one hand acknowledging that victims' needs are not traditionally met within the formal criminal justice system, this program at the same time tries to use that traditional system to meet those needs, and of course that really can't be done. The criminal justice system as we know it is an adversarial system. When somebody is offended, it's not a personal loss that they've suffered as much as it is an offence against the community and an offence against the Queen. The

Crown certainly doesn't act as the victim's lawyer. They represent the state's interests. Victims really are often no more than bystanders or witnesses to a process that they don't feel a part of, and you can't remedy that just by the artificial introduction at some point in that adversarial court process of victim impact statements or appending onto a police department a witness preparation program or some other kind of police-based victim assistance.

There are many needs that are not met, needs of abused children, needs of battered wives. These victims and other victims of personal crime are not likely to have their needs met through this fund or the kinds of programs that it typically provides funding to. Mr. Chairman, I'm not talking just about compensation. Compensation is something that is primarily offered through the Crimes Compensation Board. I'm talking about ongoing assistance to help crime victims cope with their circumstances.

Last year the victim assistance program funded some 27 projects. The value of those projects was somewhere in the neighbourhood of \$571,000. Almost all of these projects are police based. That means they're somehow attached to or affiliated with a police department or an RCMP detachment. Now, there's nothing particularly wrong with that except that it just doesn't address the needs that I'm talking about. It should come as no surprise that these programs are the ones that are funded. The police have been very active in rising to the challenge of meeting victims' needs. The police are often the first people on the scene to come into contact with the victims, and they're the most sensitive, in many cases, to the immediate needs of victims.

It's also the structure of the committee that concerns me, Mr. Chairman. The membership of the committee which oversees the allocation of this fund has just been reduced. It's currently sitting at four members: two members-at-large, as I understand, are community people, with one representative of the Crown and one police representative. Half the committee represents the formal criminal justice system, the system that has traditionally ignored victims' needs in a very real and substantial way. The other half of the committee represents the community. It would seem to me – and I hope the minister will take this under advisement – that you could go a lot further if you had the committee made up entirely of community representatives who didn't have any vested interest, didn't have any stake in the formal system, weren't trying to protect their turf or their territory. I'm not casting any aspersions on those people who are currently in the system, but we all know that you get comfortable, that you get defensive, that you get territorial when you work in huge bureaucracies like the criminal justice system. The police and the Crown really are no exception to that. Why put them into that potential conflict where they may have to balance community needs against other organizational needs?

8:30

Some of the examples of victim needs that currently aren't being met and aren't being met, I think, because of the structure of the program, the structure of the system are victim needs when it's not just a single victim. I'm speaking here, for example, of where it might be the community that feels victimized. There may be a youth gang that the police are having difficulty dealing with that may in fact be putting a whole community into disarray, and that community itself is victimized or traumatized in some way, and that community needs some assistance. Of course a community feeling that it's suffering that way would not be able to access any of the programs typically funded.

There are some victims who really would have a problem going to a police-based or a formal system based victim assistance fund.

Now, I'm thinking here of victims such as prostitutes, who are often victimized or terrorized by their pimps or their customers. Typically they wouldn't get a tremendous amount of sympathy from the formal system, and chances are they probably wouldn't even access those services offered through the formal system. They're nonetheless entitled to those services. They suffer nonetheless, and they're deserving of our assistance nonetheless. So it seems to me that if this fund were really to be administered in the best interests of the community, it should be managed by the community, and the whole definition of what a victim is should be broadened and expanded to make sure that needs are truly being met.

Now, this leads me, Mr. Chairman, to some of the criteria for funding under the victims' assistance application guidelines. Now, I'm quoting directly from the guidelines put out by that program. I notice under funding limitations, point 7 reads: "Projects which are within another government department's mandate are not eligible for funding." I wonder why it is that there would be an artificial line drawn down the middle of somebody who's in crisis or in need. If somebody has a legitimate need and it can be met through an innovative, community-based victim assistance program, what difference does it make whether that be this minister's mandate or perhaps another minister's mandate? Isn't the idea to get the money into the programs where people can benefit from them? It seems to me that that funding limitation is a real barrier to the kind of innovation that we've all seen take place in communities when governments remove barriers to community enterprise instead of erecting them.

Also under funding priorities, the second item reads: "Priority is given to projects in geographic areas where programs and services for victims of crime do not exist." Now, at first reading that makes some sense. Certainly I think it's easy to see that the idea behind this particular priority is to make sure that there's a web of some sort of services across the program. But, really, shouldn't the priority be given to where need exists, not just based on geography? It doesn't make any sense to fund a victim assistance program in a geographic location just because there isn't one – the fact could be that there isn't one because there's not a high need for one – and then to turn down a deserving program in another area of the province where there already might be one or two or three or more victim services programs but where a high need continues to exist, where demand outstrips those programs. It would seem to me that it would make much more sense to target the money towards need and not just to geography, because of course if you do it just by geography, Mr. Chairman, there's all kinds of suspicion that another way of interpreting this could be political choice and not really where victims' needs are.

So I would suggest that the minister review how this program is administered, what the funding limitations and funding priorities are, and also the composition and the mandate of the committee that administers the fund. I would suggest that he ask his department officials to go back and take a look at those programs which deserve ongoing, continuing, funding. All of the 27 projects, Mr. Chairman, the deserving projects which were funded this year, will have to reapply next year and the year following and the year following and the year following. It's as if victims' needs disappear on an annual basis, and of course that's not the case. If these programs are important and if these needs are real and deserve to be met, then they deserve to be met in an ongoing way and not subject to the whim of a court, which may or may not effectively collect the surcharge, and not subject to a committee, which may or may not be given political priorities to deal with.

Now, I'd like to leave the victims' assistance program and talk about the pending privatization of corrections, or the

commercialization of prisons. Mr. Chairman, this is an area that has concerned me for a considerable number of years, and I have some personal experience in the privatization of corrections.

Now, of course it's true that in Canada there has always been a mixed economy of service delivery in corrections. There's always been private-sector involvement. The first community corrections in this country were innovations of the private sector, primarily the Salvation Army. Internationally we've seen groups such as the Quakers really lead the way in innovations in corrections. Private prisons, or prisons for profit, are really nothing new either. There was once a time in the United Kingdom when the jailers derived no income whatsoever from the state; they derived their entire income from the good graces of the families of those who were incarcerated. So if you happened to be unfortunate enough to be in a jail in the United Kingdom, your treatment was fully dependent on your resources and the resources of your family. If you had some bucks, you got a blanket. If you had some more bucks, you got some food, and if you had enough bucks, you got released.

We've also seen that all over the world there have been attempts to reduce the number of debtors who are in jail, debtors' prison, those people whose only reason they are incarcerated is because they don't have enough money to pay a fine. Now, of course in Alberta unfortunately many, many offenders in our provincial institutions are there because they can't pay a fine. I wonder why we would be contemplating moving towards the commercialization of corrections, where a large number of our inmates are only there because they can't pay a fine. They're costing us an awful lot of money to house them, and then we're going to turn around and we're going to pay, presumably, some for-profit corporation to house those people so they can make money off this folly of debtors' prison. That doesn't make a whole bunch of sense to me. Now, it might make more sense, I suppose, if we knew from the minister or his officials really what the whole process was going to be.

What we know from the privatization experiences from other jurisdictions is that there have been some successful ones. Of course the successful forays back into commercialization of corrections have depended on a number of things. They've been dependent on well-articulated tendering guidelines. They've been dependent on contract standards being debated publicly and then being made part of the contract between the government and the service provider. They've been dependent on performance measures being written into the contract and then those measures being evaluated on an ongoing basis and then finally, before contracts are renewed, that some outcome evaluations are done and reviewed.

8:40

Now, when I say that the privatization of corrections has been done successfully, what I'm saying the definition of success has been is that there has not been an increase in cost, and there has not been a decrease in the security of the communities which are now having private corrections in their midst. You'll notice, Mr. Chairman, that I didn't say that success is dependent on cost savings, because in the long run it hardly ever has been. It is not dramatically cheaper to go to the private sector in corrections, at least not after a few years. The only way that it is ever cheaper to go to the private sector in corrections is if you don't tell the whole story, if you don't count in the public works and the capital maintenance costs and the capital investment costs, and if you make sure that you're not keeping up training standards, and if you make sure that you're using as many part-time employees as you can, and if you make sure that there's lots of turnover in the contractors so that you can always get the benefit of low-cost or

low-price bidders. In those communities around the world where they have been using private corrections for some time, what you see is that some equilibrium develops between the previous cost of providing corrections and the current cost. So all you're really doing is transferring the authority.

Well, if that's in fact the intent behind this government's moves towards private corrections, then I would suggest that they sit down again and talk with those people in the province that know a lot about private corrections and know a lot about community-based corrections and look for real efficiencies in terms of delivering correctional services instead of searching for these imaginary efficiencies which, even if they are real at first, often will disappear after a number of years.

So, Mr. Chairman, I hope that the minister will make it clear to this Assembly what his intent is in terms of tendering, in terms of contract standards, performance measures, and outcome evaluations, and I hope that he will not move any further towards the commercialization of corrections without looking at the history in other jurisdictions and without tapping into the expertise which exists in this province.

With those comments, I'll take my seat, Mr. Chairman. Thank you.

MR. CHAIRMAN: The hon. Member for Clover Bar-Fort Saskatchewan.

MRS. ABDURAHMAN: Thank you very much, Mr. Chairman. It's a perception by many Albertans that indeed our prisoners within our correctional system actually are doing better in today's society than our seniors and other members of society. To the hon. minister: I think it would behoove us to ensure that our correctional system is indeed there to give the message to people who have violated the law that it's not a holiday and it's not a hotel. I think if you look over the years, to some extent the reality is that we've got close to a hotel-type environment, and I think it's time that we started seeing that addressed in a positive way.

I know there's been much discussion about ensuring that people within a correctional system indeed contribute back to society. That certainly has some difficulties. Indeed you see the reaction – and I've touched on this before – where people feel that they may be taking real jobs away from the work force, but through the business plan and looking at the estimates I would hope and I would suggest that there are ways of working through that, that indeed people within the correctional system can meaningfully contribute to society.

Now, it was interesting that a number of years ago even within my own community of the city of Fort Saskatchewan you had a correctional system that was self-sustaining, whether it be the farm, whether it be the production of licence plates, and I could go into a number of areas. But for some reason we within society and government started to change that focus, resulting in this hotel-type environment that I'm talking about. That's not acceptable in society. People who violate the laws must be punished.

In fact, what I'm hearing from my constituents and Albertans, Mr. Chairman, is indeed that the victim in many instances is further victimized. I'll use the example – and I hope that the justice system is going to address this – that when somebody suffers a break and entry, we suddenly see higher insurance rates. Here is the victim being penalized. Now, that's not fairness, and that's not justice. That's just one small example. There are a number of examples that could be used where the victim is not served well by our justice system.

Now, there has been much talked about privatization and one location being possibly identified for privatization. Because it could indeed be in my own backyard, I have a direct interest on behalf of my own constituents, but over and above that, I also have an interest for how Alberta's taxpayers' money is being spent. Unless, Mr. Chairman, the hon. minister can show me some materials or studies where it clearly shows that privatizing a correctional system indeed benefits society as a whole – because everything that I've read to date clearly concludes that indeed that is possibly not the way to go. It's not cost-effective.

[Mr. Sohal in the Chair]

What I have to ask the hon. minister is: when we're talking about privatization of correctionals, what is it we're talking about? Are we talking about the privatization of the administration and management of the correctional centre? Or are we talking about allowing the private sector to go in and utilize the inmates to produce an end product? There are two ways to privatize a correctional system, and I haven't heard any discussion by government, Mr. Chairman, of what it is this government is talking about when you're talking about privatization.

Now, one of the pitfalls of management privatization is: who is ultimately responsible? Of course we know the answer to that. It's the government of Alberta that's ultimately responsible for the inmates within that system. So if indeed that is the ultimate responsibility, if you're contracting out to the private sector, you're going to have to put checks and balances in the system. South of the border it was certainly shown that when you actually put the outcomes and the checks in the system to hold the private sector fully accountable, it ended up being more costly. So the cost-effectiveness that attracts governments to move this into the private sector suddenly loses its credibility or viability. South of the border, in the U.S.A., they started doing this in the '80s, and everything that I've read to this point in time clearly concludes that it's not the way to go. They've experimented in the United Kingdom, and I haven't read anything there that would suggest that this is the way to go, that it's cost-effective.

Now, if we're looking on the other hand at bringing the private sector in to ensure that the inmates have work, that they actually produce an end product, that has some difficulties as well, because once again you get into the debate with the private sector. Is this unfair competition? Is it an imbalance in the marketplace? You're not on a level playing field. The other part is – and it's happened in the States; it's happened in Britain – when you have a lock-down, you suddenly find you have no workers to produce the product for your contract that you have to meet. So you have obligations there. If you're looking, Mr. Chairman, to the minister, at actually allowing private-sector companies to come into the correctional system, have you addressed, if there's a lock-down, what happens? Would you be able to bring outside workers into the correctional system to do the job to meet the contracts? Those are some of the things that south of the border they've actually experienced.

The other is when it comes to safety and security. The private sector goes into business for one reason and one reason only, Mr. Chairman, and that is profit margin. Now, when you go into profit margin, obviously numbers are important. It's been seen south of the border as well that often people remain incarcerated longer because naturally the greater the numbers – unless you've got some contractual arrangements that go the opposite way, you decrease your numbers in the correctional system – the more moneys you get. I can't see that being the case, but let's use the other example. If, indeed, you get more money for having

inmates within the correctional system, you end up with overcrowded facilities. That has been identified in the U.S.A. as a problem.

8:50

Now, let's go past that point to make sure that your profit margin's even greater. You get increased inmates. You start looking at a lower employment base. The less workers you have, the greater your profit margin.

So I would suggest to you that if you use the private sector and use the profit theory as the only reason why you'd go into the correctional systems, you indeed risk the security not only of fellow inmates but of correctional officers and your community. We've seen riots in Britain; we've seen riots in the U.S. system. I would urge this government: don't go into this blindly without addressing all the areas that I have suggested.

The one thing that I don't believe we acknowledge, even through the business plan or in estimates, is the significant contribution that correctional officers give to society. It's not an easy job. They're there to ensure that the community is secure. They're also there to ensure that inmates are secure from each other, because we all know that in many instances inmates indeed can harm their fellow inmates. When we look at the correctional officers being put at risk, I think that is unfortunate, not only for the correctional officers but also for society as a whole.

We also have another area when we're looking at privatization. What happens through the correctional system for correctional officers moving within that system? Are there going to be the same career opportunities if we indeed have a Fort Saskatchewan correctional system that's privatized and Belmont, if it's still in existence – and it won't be, as the hon. minister's saying – the remand centre, Lethbridge, Drumheller? Is there going to be potential for growth for correctional officers? I think it would indeed be unfair within a system where people who are in the private sector and the public sector don't have the same advantages for career advancement.

[Mr. Tannas in the Chair]

Now, Mr. Chairman, I'd like to also put to the minister – and I mentioned it previously, and I still haven't heard government in either estimates or supply seriously addressing what this government has in the way of a plan dealing with what I call the chronically mentally ill. Through the health care system we're hearing the scenario being put forward of the potential for Alberta Hospital Edmonton, other than the forensic portion of it, being closed – I don't disagree with it – that acute psychiatry should indeed become actively part of all acute care hospital systems, not replacing it with another psychiatric hospital. That's archaic to say the least. You don't want to close one facility to put in place something that's created a stigma for this past century.

So what I want to put through the Chair to the hon. minister is: we know that with chronic mental illness, if they don't have the appropriate caring environment – and I'm talking about shelter here – to ensure that they have ongoing treatment, they end up back in the correctional system. All I've heard to this point in time is tokenism at its worst or its best, however you want to look at it, towards these unfortunate Albertans. They don't invite mental illness. They don't consciously invite getting into conflict with the law. So I'm saying to you once again: where would these individuals fit within a privatized correctional system? I think I would be correct in assuming that it's not going to be as easy or as inexpensive to have contractual agreements back into the health care system, whether it be Alberta Hospital Edmonton or the Royal Alex hospital for psychiatric care. That whole area

has to be addressed, because if it isn't, you're going to see greater inner-city problems, not only in the inner city in Edmonton or Calgary. You're going to see a lot of these problems overflowing into our smaller communities.

Now, with regards to young offenders, we certainly can't continue along the path that we've been going, and everybody is blaming the Young Offenders Act. I think what we've got to clearly see, Mr. Chairman, to the minister, is the justice system becoming responsible and using the Young Offenders Act in the way that it was written. That's not happening. We've got to stop protecting the habitual young offender. That's not serving society in a positive way at all, and what ends up happening is you're having an ongoing reaction by society back to the Young Offenders Act. I would say that whether it be the provincial justice system or the federal justice system, we're not being responsible in dealing with that.

The other area is that until this government, whether it be through agreements with the health care system or the social service system – and I keep repeating this, and I have to thank the minister for the answers to my questions. Unfortunately I didn't have time this evening to read them, so some of the answers may indeed be in here. But I have to stress that we have a group of young Albertans out there that can't get clinical treatment, whether it be psychiatric or psychological problems, that are going to become part of the justice system in the future, not because they come from a negative home environment. It's because they're psychiatrically ill. I know personally. Right now I'm working with a number of people not only from my own constituency but from other constituencies where families and social workers and medical people are desperately looking for the support systems in the clinical treatment programs. The bottom line is: they're not there. I used an example the last time I spoke to estimates. That case now is before the courts.

MR. CHAIRMAN: Bow Valley is rising on a point of order.

MRS. ABDURAHMAN: I think he was just acknowledging me.

I think it's unfortunate that what we see is us now using our judiciary, a costly system, for something that's clearly a health related area, and this is going on and on. It's not the past decade. It's the past two decades. That, Mr. Chairman, to the minister, has got to stop.

I'd like now to conclude and let my hon. colleague Calgary-Buffalo have another opportunity, Mr. Chairman.

MR. CHAIRMAN: All right.

The hon. Government House Leader.

MR. DAY: Mr. Chairman, I move that the committee do now rise and report progress.

[Motion carried]

[Mr. Deputy Speaker in the Chair]

9:00

MRS. GORDON: Mr. Speaker, the Committee of Supply has had under consideration certain resolutions of the Department of Justice, reports progress thereon, and requests leave to sit again.

Mr. Speaker, I also wish to file four copies of the documents tabled by the minister during Committee of Supply this date for the official records of the Assembly.

MR. DEPUTY SPEAKER: Does the Assembly concur in this report?

HON. MEMBERS: Agreed.

MR. DEPUTY SPEAKER: Opposed? Carried.

[On motion, the Assembly resolved itself into Committee of the Whole]

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

[Mr. Tannas in the Chair]

MR. CHAIRMAN: I'd like to call the Committee of the Whole to order.

Bill 2
Alberta Sport, Recreation, Parks
and Wildlife Foundation Act

MR. CHAIRMAN: Are you ready for the question?
The hon. Member for Edmonton-Avonmore.

MR. ZWOZDESKY: Thank you, Mr. Chairman. I've just arrived, and I want to make sure that I'm in the right place in the agenda. I'm of the impression that we are picking up our discussion with regard to Bill 2 right where we left off a few days back when we were in session and we were addressing the amendment that was left on the table. Is that correct, Mr. Chairman? Thank you. I will proceed then.

As I started to enunciate earlier, as the government moves through this process of amalgamating the Alberta Sport Council and the Recreation, Parks and Wildlife Foundation, my concern in that regard is that – the amendment I've just presented puts into place a structure that would at least flag for the government that if they are determined to make this move, Mr. Chairman, they would do it at no cost to the foundation. That is where we left off with the amendment. I'd be happy to speak to that if you'll allow me.

SOME HON. MEMBERS: Question.

MR. CHAIRMAN: No, it's not time for the question. I just have interrupted the hon. member to remind committee members that this is the second amendment that we have received from Edmonton-Avonmore and has not yet been debated and voted upon.

Perhaps in your coverage of this, since some people may have inadvertently left them at their work desks, you might read us the amendment again. Edmonton-Avonmore.

MR. ZWOZDESKY: Thank you, Mr. Chairman. I would be very happy to do that. It's a very straightforward amendment and no doubt one which even members opposite will have no problem supporting, because it really does act in their favour. The full amendment, then, simply reads as follows. It's with regard to section 7.

If the Minister and the Foundation consider it necessary, the Minister may provide to the Foundation the services of employees of the Government under the Minister's administration to assist with the work of the Foundation, at no cost to the Foundation.

I just want to mention for the benefit of all those members who may not have the amendment immediately at their fingertips that in fact the only change to this particular clause is the addition of those six words at the end of the clause, which say "at no cost to the Foundation." I think the reasons for this are really quite

obvious. However, just to be sure that we're making the point, Mr. Chairman, I want to address this from the standpoint of helping the government to avoid a possible area of conflict that they might otherwise find themselves falling into.

The foundation and the Sport Council have, as everyone here knows, a tremendous legacy of good work in terms of the projects they have supported and the initiatives they have created in the community in the areas of sports, parks, recreation, and wildlife. It will come as no surprise either to know that so, too, has the government had a department that has worked in at least one of these two areas and tries to support in some cases many of the same clients. I would assume that that's one of the reasons why the government is intent on bringing forward a piece of legislation that would see the possible avoidance of duplication in terms of funding, in terms of support, and in terms of services offered to those constituents.

My concern, then, is that as the government moves forward into this area of streamlining by realigning these groups, we don't put the government at risk of having a department of the government possibly funded by one of these arm's-length, or supposedly arm's-length, foundations, and that in fact is exactly what we might see happen here, Mr. Chairman. I submit to you that the department that deals with parks, recreation, and wildlife matters inside the government has a number of initiatives that it would like accomplished, and in order for them to accomplish those initiatives, there may be a temptation for them to rely on not only the services of personnel over at the Sport Council or the RPW Foundation but also there might be a temptation for the government to actually have some of the government's own business possibly offset and/or covered by foundation dollars.

Now, as we have heard in this House before, these foundation dollars were not accrued for the purpose of specifically helping government accomplish its agenda or helping government departments to accomplish agendas. The foundation, as with the council, as with certain other commissions, came into being, Mr. Chairman, to help fulfill a void that was otherwise left behind because of the government's inability to move in a certain area. If they are left to perform that function unencumbered, with no additional expectations on it, they can do a very good job of that.

I think as you review the records of the Sport Council and of the RPW Foundation you will see that they have been cared for in that light. A large part of their success has been the rather hands-off approach that traditionally government has taken. I think we risk seeing a movement towards a possible manipulation, I guess would be one word, or control of some form here. Now, I say this as a cautionary note, not as a statement of fact, and I say it to help the government, as I said earlier, avoid stepping into an area of conflict.

The other part that needs flagging here, I think, is that when you take a look at the types of projects that the council has done and the types of projects that the RPW Foundation has done, these things have been accomplished as a result of the many good people that form part of the larger network of volunteers who support those services. They support those services not only in the community by being members of some of the groups that are supported by the foundation and the council, but they also take a large role through their own volunteer services as board members on the foundation and the council themselves.

So as we take a look at the larger picture here of what is happening, we must do what we can to help preserve what is already working. This particular foundation and this particular council have a good track record in this regard, and we should not impose upon them something which might derogate from that purpose.

9:10

I would suggest, then, that there is absolutely nothing to be lost here in this clause by simply adding in that whatever functions the minister and/or the chairman of the foundation or the employees of the foundation might require be done, these particular aims and objectives can be adequately met by the foundation looking after its piece of the pie and the council having a role in that as well and, secondly, by having the government accomplish what it otherwise has to accomplish for its purposes by its own government employees.

What we don't want to see is obfuscation here or some kind of a disfiguration of that process. We know that from time to time governments do have a need to command the attention of their own departments – that is to say, the departments over which they have control – to accomplish something beyond which might only be spelled out in the purpose of that department. Mr. Chairman, I'm referring to something that might be in other words construed as something which the government might want done but which perhaps the public may not necessarily see as necessary. Sometimes these things can then be looked at as being of a political nature.

Now, I know that's not the minister's intention here, so I'm trying to help him protect against that by simply suggesting that if you want to go that extra mile, Mr. Chairman, to make sure and make it clear in the minds of all Albertans that you do not in any way, shape, or form want to exercise too much control over any of your bodies, you add this small clause in there.

We know as a matter of fact that people do respond and do react to different parts of government operation with different feelings and different emotions. However, we know that people are extremely united when it comes down to affecting the pocketbook, specifically here the pocketbook to which the government would otherwise have direct access. Providing this small clause that would say, "Please do what you need to do but don't use lottery dollars, do not use the foundation council dollars to accomplish it," is not asking too much.

The lottery purse is growing, Mr. Chairman. This will come as no surprise to you. It's a phenomenal success in Alberta. Albertans pride themselves on the types of projects and the types of foundations and the types of services that are provided as a result of the amalgamation of dollars that come forward from lottery funds. I'm talking about the video terminals, and I'm talking about games of chance and all kinds of things that form the larger umbrella of lottery funds. No one would want to see those lottery funds used other than for the purposes that they were originally designed.

Now, having said that, if the government does in fact have some other possible use for these funds, if the government does have in mind the creation of some different or some new services, then I think the government should bring those services forward. Bring them up for debate, and then we'll discuss on another day what types of moneys might possibly go toward that, but at this stage I don't think there's any reason for foundation dollars to be at risk for being used in some government way.

I think one of the final things I'd like to just add in this regard, before I pass on to one of my other colleagues to comment, is that we must never underestimate what it is that the volunteer network out there is capable of doing when it comes to properly assessing projects on the basis of their own merit. So far I think that's what we have seen. We have seen something like \$14 million in lottery funds flow through these two bodies; that is, the council and the RPW Foundation. Those projects have been scrutinized, I'm sure, very carefully by a board of directors who have been elected

and/or appointed on the basis of the particular experience and merit that they bring to that particular portfolio. Here again we see an opportunity for the government to not only be judged as having been fair and aloof but also being very cost conscious by not attaching any of its activities toward the foundation and the council in terms of funding requirements or funding expectations. The bodies we have right now that have these volunteers working so hard . . .

MR. CHAIRMAN: Order. We seem to have forgotten that you can't stand and talk to one or more people.

Edmonton-Avonmore, to continue.

MR. ZWOZDESKY: Thank you. That was an unexpected pause there. I just wanted to reiterate the point I was making with regard to the tremendous trust that we put in the volunteer board members. We work with a lot of these people, Mr. Chairman. You work with a lot of these people. You know the calibre of person of whom we speak here, and to tell them that at some point all of their work may possibly be usurped because of a shortage of funds because the government may have undue call on some of those dollars I think would be grossly unfair to the people involved. That's why again I stress that the minister has every right – and I can appreciate he has even the need – to stay in touch with what's going on with these foundations. They must be accountable to somebody, and I don't think that's a problem. The problem here is when the Act would go one step further and say that there might possibly be costs involved in enacting some of the government's wishes or the minister's wishes. Then I think that the trust placed in the members of the board somehow gets compromised.

We don't want government obscuring the role that the foundation and the council would have. We don't, in other words, want some kind of blending of what it is that the government departments do versus what the foundation and the council do. We don't want government employees feeling obligated that they have to carry out some of these government jobs. If government employees or, more specifically, their services are needed – I think I've said it before, Mr. Chairman; I'll just reiterate – there are other ways that the government could surely solve that problem, but here I think there's a need to spell out that it should be at no cost to the foundation.

I think that if anyone is looking at voting against this particular amendment – and perhaps one or two individuals might be – what they're really saying is that it's okay for government to charge the foundation or the Sport Council for some of the services or the assistance of personnel or whatever, and I would strongly object that that's not necessary here. If you're looking at voting against this rather important addition, I think you're saying that it may be okay for the government to perhaps even invoice itself, if you will, because the foundation reports to government as well. I don't think that's fair ball either.

Now, in conclusion, I just wanted to make it very clear for the record again, Mr. Chairman, that no one on this side of the House is opposed to streamlining or to the notion of avoiding duplication of effort or to those kinds of cost-effective measurements. What we are opposed to, however, is when those kinds of decisions are poorly thought out or are forced upon us or forced upon Albertans without any really carefully thought through plan and, in this case, where a possible amalgamation of two foundations may leave the door open for the government to in fact charge back some of the services to accomplish some of its own agenda. Again, I'm not suggesting that that's what they are going to do; I am simply suggesting that the potential exists for that to be done. I would

strongly argue against that and encourage the government to take a look at this motion and add in "at no cost to the Foundation."

So with those few remarks in regard to this amendment, I would expect that some of my other colleagues might have a couple of comments they might make with regard to the amendment to section 7 specifically asking the government to not allow any costs to be charged back to the foundation.

Thank you, Mr. Chairman.

9:20

MR. CHAIRMAN: The hon. Member for Leduc.

MR. KIRKLAND: Thank you, Mr. Chairman. I would stand up and speak in favour of the motion. I think that the motion is fairly clear and fairly simple. It's not difficult to understand. These groups that we're dealing with here, as the hon. Member for Edmonton-Avonmore indicated, are nonprofit groups. They provide thousands of hours of tireless work to better the life and the quality of life of Albertans. It's only fair that these people and these volunteers be rewarded with the platform and the opportunity to work without the government potentially charging them back hours for the assistance that they occasionally offer. I think our world is composed of a goodly percentage of volunteer time, and volunteer time is what has made most of the communities in Alberta the successful, quality places they are to live in today.

The entire Bill was intended to capture efficiency and streamline; at least, that's what it's brought forth to purport to do. I would take exception that it did not go far enough. If anyone in this House were to take some time and examine the report of the Wild Rose Foundation and also the report of the Recreation, Parks and Wildlife Foundation and look at the Sport Council foundation, all three of those particular bodies are dealing with very similar and like causes. If we are really searching for that efficiency, it should have been taken to the next step, of course, and amalgamated the three into the one.

Not to lose sight of the amendment – I may have been just a little offtrack there – we are talking about efficiency, and if we're talking about efficiency, I don't think efficiency is defined in the sense that the government should, on the backs of the volunteers of this province, bill them for the opportunity to work with them. These groups are providing, as I indicated, great profit to society and to the communities as a whole. We have in most cases political appointees to all of these boards. One has to extrapolate the fact that the friends of government have been appointed to this board. That itself in essence should ensure and protect that the mindset or the philosophy of the sitting government continues to prevail throughout those boards.

Now, having said that, I am a little perplexed as to why this clause would be included if it was not for the fact that there is an attempt or a new stage or new area to present to the government an opportunity to introduce another new form of fee, in the sense of invoicing those groups that, as I say, toil tirelessly in a volunteer position. I think this is one of the most insidious types of potential taxes, and as the hon. Member for Edmonton-Avonmore indicated, though it does not clearly state that that is the intention, one would think that the amendment that's put forth would be welcome, particularly if there is no untoward suggestion or thought as a result of clause 7 in the amendment. Why would one be concerned if the intent is not to invoice these groups? Why would one be concerned at this particular amendment? If we are to accept that side in its sincerity and at its honest self, there should be no cause or concern with this amendment, and I would ask them all to support it. If they don't, then I get the message from the lack of support for the amendment that there is that intention to bill nonprofit and volunteer groups.

I think that is very unfortunate, if we arrive at that in this situation. It will certainly be a detriment to the volunteer segment of Alberta and it will work to our detriment in the long term, because if we can't bring the presidents of the Alberta Volleyball Association or the Alberta Ringette Association or the Alberta minor hockey association on board to work with their members and their volunteers to achieve quality of life in this province, we will ultimately drive them away as a result of removing and interfering at a government level. Then truly the long-term cost will be astronomical, and a lot of the programs that we have in this province today of course will fall by the wayside.

So, Mr. Chairman, just to reiterate, the amendment is a friendly amendment as I see it. It simply solidifies in one's mind that there is no insidious intention to invoice volunteer groups, and if that is the government's intention, then one would think that they would step forth and certainly give support to this amendment. So that being the case, I would ask all members not to view this as something suspicious simply because it comes from side opposite. It's simply to flush out the real intention. If the real intention is as we read it here, then in fact by nonsupport of this particular motion you will indicate and give us a true direction. That will convince us on this side that we're on the right road in this particular area.

[Mr. Herard in the Chair]

So with that, Mr. Chairman, I would conclude my comments and turn the floor over to some of my more knowledgeable colleagues, probably from this side of the House, to comment further on this particular matter.

MR. ACTING CHAIRMAN: The hon. Member for Spruce Grove-Sturgeon-St. Albert.

MRS. SOETAERT: Thank you, Mr. Chairman. I stand, of course, to support this amendment, and it would be nice if the minister responsible could listen once in a while so that he hears our good ideas over here. I think what we have to make clear here is a clear definition between what government departments do and control as opposed to what government bodies do. This Bill will be for government bodies, and my fear in this is that we just want it to be "at no cost to the Foundation." If employees of government departments are obligated to serve the government, then they have to fulfill the wishes of the government, whereas in Bill 2 we'll create, with the Sport Council and the Recreation, Parks and Wildlife Foundation, a semiautonomous board. Those people have an obligation to serve their constituent groups and not their government departments. Of course, we have several volunteers across Alberta that are involved in this. When these kinds of foundations are supported with lottery dollars, it's important that the lottery dollars stay with the foundations and not with government departments.

By putting in this very simple amendment – it really only adds a few words, "at no cost to the Foundation" – it just actually gives this government a chance to attempt to be more honest and open in that they're guaranteeing that the lottery dollars will stay in what they were meant to and not be slipped into some government department.

So it's a very simple amendment. I wish the minister would consider it seriously, and I would urge everyone in this Assembly to support the amendment that will protect the foundation from having any money siphoned into government departments.

Thank you.

MR. ACTING CHAIRMAN: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you kindly, Mr. Acting Chairman. I recognize that some members opposite want to bring this to a head and call for the question and do their part for law and order in Alberta. I want to suggest that we play an amusing little twist of words this evening in this particular section and see if you could substitute any word. See if you could substitute your house painter or your lawyer or your accountant for the minister that is indicated in that provision and still find favour with that particular wording. It is perhaps the case that it is intended that the government, through the government services, will be able to provide a helping hand to a worthwhile community foundation. If so and if there is no intention to charge any fees for that, then the government will be a contributor to good deeds just like any other patron of these objectives that makes a cash donation. If so, there should be no difficulty with the amendment.

Let me use the phrase "lawyer," because I don't want to get into any criticism of any calling, and I feel that if I use a calling that I know something about, perhaps the point will be illustrated without animosity to any profession. What this paragraph says is this: if your lawyer thinks it's necessary, your lawyer can provide you his services to carry out the work. Now, who would do that? Who would buy into a provision that allows somebody who's going to provide the work to also appoint themselves to determine whether the work is to be done when you have a lawful foundation set up to do these things? Even if the first minister in this particular section, in this so-called innocuous housekeeping section, were replaced with the phrase "if the foundation feels," then maybe we'd be on a firmer footing, because the foundation could go to the department and ask for help. The department could say, "Well, look, if you need our help, we are going to have to charge you some value-added money." But when it is the department coming to the foundation and saying, "We're going to help," and then it leaves unanswered the issue of whether there is a fee or a cost attracted to that, I get some concern.

9:30

Now, what are we trying to do for all Albertans with this foundation? We're trying to encourage people who are benefactors of the goals of this foundation to make contribution. That's what we're trying to do, Mr. Chairman. Now, why would we put up roadblocks against contribution? Why would we have somebody who is astute enough, for example, who might want to endow a million dollars to this objective – and I have often believed that people who are prepared to endow a million dollars and have got a million dollars to put together are usually not dead from the neck up. They usually have some smarts about them. Why would they want to do that when they look and say, "Oh, yeah, here's another way that the minister's going to take my million dollars into the government by creating some project, making a declaration that we're going to in fact do the work, and then charge for it."

The members opposite might say that the amendment is an amendment of paranoia, but with respect I disagree. There are very few people, organizations, or things in industry that can appoint themselves to do the work and then leave open the door to charge for the work and how much they're going to get. I mean, when somebody comes to your door and knocks on the door and says, "You need a home improvement, and I'm the person here to do it," what are you going to say to him? You're going to say, "Look, I decide when we need home improvements, not the supplier of the service."

So I urge all members to put aside the tittering and the hour and to put aside the concern and look at this amendment as a sound one. All we're saying is that if the minister is going to go to this foundation to do the work, you do the work free. Otherwise, the foundation has to come to you and ask you to do the work. That's as simple as I can put this argument, Mr. Chairman. It's an important amendment, and the passing of it tonight would speak legions about the government's preparedness to listen instead of just to steamroll on, as sometimes things appear to be. So I urge all members of this Assembly to vote for this particular amendment.

If the minister doesn't want to charge for the money, then, fine. Then let's add the amendment. If the minister is leaving open the door to charge, to appoint himself to do the work and to charge, then we have a real problem here. We have slipped in attitude further than we ought to have slipped, and I urge that commentary on the members of this Legislature.

I know that others are getting ready to speak to this amendment, so as a result I'll conclude my comments by urging people to support the amendment.

MR. ACTING CHAIRMAN: The hon. Member for Redwater.

MR. N. TAYLOR: Thank you, Mr. Chairman. I'd like to add my small voice to the Member for Fort McMurray and everyone else on this side who is having trouble understanding why an amendment like this would not pass. It seems so logical. For some years I've been on the heritage trust fund, and I think some of you newer MLAs are on that heritage trust fund committee. One of the big problems we have, as already pointed out by Professor Mumey, I think it was: we call it circular accounting, or whatever you want to call it. We have the Municipal Financing Corporation and other government members paying interest and fees to the heritage trust fund. These organizations are broke, anyhow, that are paying the fees, so they get the money from general revenue, which they then pay back to the heritage trust fund and give the impression that the heritage trust fund is making a reasonable rate of return.

So similar now in this argument here. When we set up a process of being able to charge – and you must remember that a lot of this is funded by lottery funds; it is a cash cow, if you'll pardon the expression – the government, I think, rightfully is trying to change from one-man operatorship, yet we're going to lapse back if we don't put this amendment through. If we allow the people to charge or make cross entries, you might say, in the economics of the area, it's going to be very hard indeed to try and unravel what does go on when the minister responsible makes a report. In fact, it should be the whole Legislature that is reported to. So if we've got a system where one department is charging another department, moving it back and forth, it gets very difficult indeed to do the type of budgeting it would need.

Without gilding the lily much more, I know there are others that want to say more about this, but I just wanted to add what little experience I had with the heritage trust fund to show that this type of accounting, being able to move the money back and forth between departments of government, ends up with nothing but a headache and doesn't give a true reflection of what's really going on.

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

MR. DICKSON: Thanks very much, Mr. Chairman. I think one of the reasons that I support this particular amendment by my

colleague for Edmonton-Avonmore is that when this comes to a vote, it's going to clearly put members of this House in an interesting situation. We'll find out which members of this Assembly genuinely believe in autonomy, at least limited autonomy, and independence, and which members believe that foundations like the Alberta sport, recreation, parks and wildlife foundation are nothing other than instruments of government policy. One would have thought that in Alberta it would be so clear and so evident and so obvious that if there's one thing that's fundamentally essential to a foundation that has public support, that has a sense of integrity, that's respected by Albertans, it would surely be a sense of independence, a sense of distancing from government.

I make this analogy, Mr. Chairman. I see the Minister of Community Development is here, and it puts me in mind of that other model, where we've seen the Alberta Human Rights Commission, which, no matter how much we try and how often we assert the importance of creating a sense of independence, still continues to operate directly under the control of a cabinet minister. As I've said before, while I have every confidence in that particular minister, I'm exceedingly uncomfortable with the fact that the Executive Council reaches into what is supposed to be and is in most other jurisdictions an autonomous body to control it.

What we look at when we look at Bill 2 if the amendment does not carry is that we have once again another board which has no functional independence from the executive, no functional independence from the government. That's problematic. I think it's something Albertans aren't prepared to put up with.

If there's one thing that I understood the government had promised Albertans on June 15, it was a different way of doing things. It was a way of listening, a way of being more accountable, being more responsive. I'm sorely disappointed, Mr. Chairman, that we see in Bill 2 that it looks like the old lessons haven't been learned. Now, why is that? How could it possibly be that after everything we've been through in this province, there would still be legislators – never mind legislators, there would still be cabinet ministers that would think it would still be appropriate in 1994 to have this kind of direct control over a foundation?

I just say to all members: we ought to support and I urge all of you to support this amendment not for the sake of the Liberal opposition, not for some peculiar interest in this House but simply for all those that want to see an independent and a worthwhile foundation. It has to be off-distance from the executive arm of government. I commend my colleague for Edmonton-Avonmore for crystallizing in really a scant few words an absolutely essential principle, and I think all members should enthusiastically embrace this amendment. It does at the end of the day exactly what I think all members want to see: a stronger, a more independent, and ultimately a more vibrant foundation. So for all of those reasons, I urge members to support the amendment. I think that if one looks at the way the amendment's been constructed, it provides a degree of flexibility. It allows for an agreement to be achieved between two parties. In one case we have the minister and in the other case the foundation. So that creates a useful kind of flexibility.

9:40

If you look at section 7 in the Bill itself, we don't have negotiation; we have the minister unilaterally, exclusively deciding whether he will provide "the services of employees of the Government under [his] administration to carry out the work of the Foundation." There's no indication in terms of whether the foundation is going to embrace that, welcome it. Some members

may say, Mr. Chairman: "Well, that should be self-evident. That should be absolutely obvious." But it isn't, and I think the fact that we have this mandatory wording, when "the Minister considers it necessary, [he] shall provide" – there's no flexibility in that, Mr. Chairman, and that's a problem. So I think that is a key difficulty.

What we've said in this House before is that we want to increase the element of responsibility. We want to make sure that members and certainly cabinet ministers are directly accountable to this House for those activities in which they're involved. We know what's going to happen, Mr. Chairman, if this amendment doesn't carry. I have every expectation that what we're going to see is a situation where the minister is going to be involved in terms of providing a service through his employees which the minister of the day will not accept responsibility for because it is, after all, a statutorily created foundation, yet the control, the functional control can be traced exactly back to the minister.

So for all of those reasons, Mr. Chairman, I urge members to support the thoughtful amendment put forward by the Member for Edmonton-Avonmore. I'm confident that there are other members that also want to share their views with the members on this particular amendment.

Thank you, Mr. Chairman.

MR. DAY: Mr. Chairman, I move that the committee rise and report progress.

[Motion carried]

[Mr. Deputy Speaker in the Chair]

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

MR. HERARD: Thank you, Mr. Deputy Speaker. The Committee of the Whole has had under consideration certain Bills and reports progress on Bill 2. I wish to table certain copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

MR. DEPUTY SPEAKER: Thank you.

Does the Assembly concur in this report?

HON. MEMBERS: Agreed.

MR. DEPUTY SPEAKER: Opposed? So ordered.

[At 9:45 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]