Legislative Assembly of Alberta

Title: **Tuesday, November 1, 1994 8:00 p.m.**
Date: 94/11/01

[Mr. Deputy Speaker in the Chair]

MR. DEPUTY SPEAKER: Please be seated.

[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'll call the committee to order.

Bill 44
Advanced Education Foundations Amendment Act, 1994

MR. CHAIRMAN: I will be asking if there are any comments, questions, or amendments to be offered with respect to this Bill and call on the sponsor, the hon. Minister of Advanced Education and Career Development.

MR. ADY: Thank you, Mr. Chairman. I'll keep my comments brief. This Bill only deals with the rudiments of putting together a process to allow the four private colleges in our province to form a foundation so that they can raise funds to operate and to pay for capital costs at their institutions and do it with certain tax concessions that flow to them under the foundations Act.

Also this Bill serves to take out the sunset clause that presently exists for foundations, which would cause the foundation to end at a certain time in the future. That no longer will be there. When the colleges foundation Act was first brought in, it was brought in for a specified period to see how well it worked for the system. It seems to have proven itself to this point now, so there is no necessity for that sunset clause to prevail. This is something that the institutions have been asking for for quite some time, and we've now seen fit to bring forward legislation which will enable them to have a foundation.

To clarify for members opposite: yes, it is necessary to have a separate foundation for the private colleges, just as it's necessary to have a separate foundation for the public colleges and a separate one for the technical institutes.

So without further comment, Mr. Chairman, I'll cease my remarks and hear from members opposite.

MR. CHAIRMAN: Thank you.

Before calling on the hon. Member for Edmonton-Mill Woods, the Table has received a document and wondered whether Calgary-Shaw was wanting to table this document.

MR. HAVELOCK: Pardon me?

MR. CHAIRMAN: A document was received from yourself. I just wondered whether or not you wanted that tabled.

MR. HAVELOCK: Was the document signed by me, Mr. Chairman?

MR. CHAIRMAN: I'll check and see whether I can recognize your signature.

MR. HAVELOCK: I don't believe it was. I think you might be making an erroneous assumption.

MR. CHAIRMAN: The hon. Member for Edmonton-Mill Woods.

DR. MASSEY: Thank you, Mr. Chairman. As I indicated before, we support this Bill and do so with some cautions. I would like to just review those cautions briefly before concluding comments for this side of the House.

We'd like to indicate that part of the reason for this Bill of course is that institutions aren't being adequately funded by the government, and they in no way can be looked upon as mechanisms for the government to escape the responsibility it has for adequately funding postsecondary institutions in the province.

A second caution is that there will be increasing competition for the limited corporate dollars that are available. We now have schools, we have hospitals and universities and colleges and institutes all running around the province, all trying to gather as many dollars as they can from private donors. It may not be a problem now, but we can see somewhere down the road that this may become a problem.

There's an underlying concern in the academic community that academic interests may be undermined by business interests. There's also the concern on the part of some administrators and those people in charge of supervising institutions that long-term planning is going to become more difficult when there is more and more dependence on foundation funding. Again, some indication that the political and the social agenda of contributors may have an inordinate amount of weight in institutional decisions.

So with those final comments, Mr. Chairman, we do support the Bill and look forward to those foundations being established and doing the kind of good work we know foundations can do.

MR. CHAIRMAN: Okay. Are you ready for the question?

HON. MEMBERS: Question.

[Title and preamble agreed to]

[The sections of Bill 44 agreed to]

MR. ADY: Mr. Chairman, I move that the Bill be reported.

[Motion carried]

8:10

Bill 45
Alberta Health Care Insurance Amendment Act, 1994 (No. 2)

MR. CHAIRMAN: The hon. Member for Olds-Didsbury.

MR. BRASSARD: Thank you, Mr. Chairman. [interjections] Thank you again, Mr. Chairman. Bill 45 deals with a confidentiality issue, and we've discussed it in great length in second reading and agreed to it in principle.

There were, however, some concerns raised regarding the issue of confidentiality, and without referring to the comments of the Member for Edmonton-Glengarry, who confused some of my comments with a Bill that was introduced by that party, I would like to deal with the specifics that were of concern. One of the

concerns raised was the ability of the minister to delegate the responsibility for responding to requests for information for research purposes. I'd like to point out that the minister's ability to authorize a member of her staff to respond to these requests mirrors the ability of the head of a public body to delegate his responsibility under the freedom of information Act, section 80.

Several members raised concerns regarding the protection of privacy under this Bill as compared to the protection of privacy under the Freedom of Information and Protection of Privacy Act. I should note that the minister may release information only for bona fide research purposes. The minister will not release information unless he or she is satisfied that the research purpose is genuine and that the researcher will comply with all of the stated safeguards. In addition, individually identifiable information may be released only if the purpose for which it is required "cannot . . . be accomplished unless that information is provided in individually identifiable form." Researchers who reveal information identifying an individual are subject to the $10,000 fine. These safeguards are consistent with those listed in section 40 of the Freedom of Information and Protection of Privacy Act.

The Member for Lethbridge-East was concerned with the release of individually identifiable information to researchers without an individual's consent. I should point out that the release of individually identifiable information to researchers without the consent of the individual is authorized by section 40 of the Freedom of Information and Protection of Privacy Act. Section 40 states that

> a public body may disclose personal information for a research purpose . . . if the research purpose cannot . . . be accomplished [without that information] or the research purpose has been approved by the Commissioner.

Information will be released under section (5.1) if individually identifiable information is not necessary to complete the research. The information will be released under section (5.2) if the individually identifiable information is necessary to complete the research and the minister is satisfied that the individual information will not be revealed without the consent of the individual. If the researcher does reveal information without consent of the individual, then of course once again they are subject to the fine of up to $10,000.

There was concern about the retroactivity clause because it was deemed to be in force as of 1991. That was put in, Mr. Chairman, because the Blue Cross agreement was entered into on January 1, 1991, and in order to remove any doubt about the government's authority to provide these services, this section is effective on the same date that the agreement was entered into.

Bill 45 does not lead to a two-tiered system. Bill 45 does not define core services. Bill 45 does not attempt to define what services are basic health services. Basic health services are defined in section 1(a) of the Act. Section 4 is required to make sure that we have the authority to pay for the services we already provide under the Blue Cross drug plan.

I look forward to the ongoing debate, Mr. Chairman, and I thank you for your indulgence.

MR. CHAIRMAN: Are there any comments or questions? The hon. Member for Calgary-North West.

MR. BRUSEKER: Thank you, Mr. Chairman. The hon. Member for Olds-Didsbury raised a couple of interesting points. One of his comments dealt with the definition under basic health services in section 1 of Alberta Health Care Insurance Act. Again in the very first part of Bill 45 section (4.2) talks about changing the regulations once again. One of the issues that . . . [interjections]

MR. CHAIRMAN: Order.

MR. BRUSEKER: Thank you, Mr. Chairman. It is a little loud in here.

Under section 1(a), definition of "basic health services," again it talks about services classified as basic health services. There's that phrase once again that we have heard so many times, "by the regulations." Mr. Chairman, those words "by the regulations" again leave it wide open for changes to be made in areas and chambers other than this Chamber, which is a concern that we have had before. I raise it once again that it looks like we can get some changes occurring in regulation that could potentially indeed lead to the two-tier system we alluded to earlier on, hon. member.

So the concern we have, Mr. Chairman, is things like in (4.2), reference again to "the regulations under those Acts." Again, as soon as I see those words – and I don't see proposed new regulations that go with those. If indeed that is being referred to, then that raises a red flag, at least for this particular member, because I'm not sure exactly what we're going to see happen to those regulations. Once again to this hon. Member for Olds-Didsbury, who I know indeed to be an honourable gentleman, I would personally feel far more comfortable, and I know many of my colleagues would feel far more comfortable if indeed we had those regulations or proposed changes to regulations before us as we debate the Bill at the same time. That indeed has been a concern that I've raised with other pieces of legislation. It's not a new concern.

Mr. Chairman, I want to turn to page 2, clause (5.2), as pointed out in this particular piece of legislation. I just want to read part of the sentence that starts off:

> The Minister or a person authorized by the Minister may disclose, for the purpose of bona fide health related research, any information obtained under this Act . . .

Then it goes on. I'm going to skip a little bit.

> . . . if the Minister or authorized person is satisfied that the person conducting the research will not reveal . . .

et cetera, et cetera.

The concern I want to raise at this time with that particular section of that clause of the Bill are the words "is satisfied." The question I would like put to the hon. Member for Olds-Didsbury, whose name appears on the Bill as sponsor, is: what process is going to be followed to ensure that this is going to happen? I mean, "is satisfied" could be as loosey-goosey as two guys sitting down over a cup of coffee saying: "Yeah. Okay. Joe, go ahead and do your research." Or it could be something more formal. There might be a form. There might be an affidavit that has to be signed. It might require something by a commitment signed under a commissioner of oaths, a notary public, something before a judge in chambers. I don't know. All that the Bill says is "is satisfied." I would like to know from the sponsor of the Bill how it is that someone who is either "the Minister or a person authorized by the Minister," – how is that satisfaction going to be achieved?

One of the things that has been a long-standing issue, a long-standing tradition, even a long-standing matter of law, I believe, is confidentiality between client or patient, I guess, if you want to call it that way, and the patient's doctor. This section, as I read it, suggests that if "the Minister or a person authorized by the Minister" – and that's the phrase in section (5.2) – allows the information to be released, then indeed it could be released regardless of whether the patient agrees or not and regardless of the detail of that particular case, whether it's a longitudinal study of cancer patients of whatever or a cross-sectional study of the number of incidences of tonsillitis. It could be just about anything, the way I read this particular piece of legislation.

So the concern I have is – and I believe this is a concern for the medical profession indeed, Mr. Chairman. Certainly Dr. Fred Moriarty, who's the head of the Alberta Medical Association, has made comment that this long-standing tradition that a patient – and that includes certainly I imagine all of us here who at some point or other have had to go to see a doctor for whatever it is, whether tonsils or appendicitis or a heart attack or any variety of ailments that unfortunately afflict the human species. We want to know as individual patients that we can go to our family physician or to our specialist and get the treatment we need for the problem we have at that time without that information being released willy-nilly. So the point I am perhaps belabouring a little bit here, the issue, the whole question is "is satisfied." Yes, I know there's a clause in there further down, (5.3), that talks about a maximum $10,000 fine.

8:20

You also have to recognize that from my observation, which is admittedly limited, the judges are loath to go to the maximum penalty. So if someone is pursuing a course of study, for whatever reason, and says: "Well, I'm going to get the information, and how I get it, I really don't care. The fine I may or may not face is not going to be any higher than $10,000." If it's a large pharmaceutical firm perhaps, and I'm not . . .

Chairman's Ruling
Decorum

MR. CHAIRMAN: Hon. members, the Member for Calgary-North West is attempting to respond at committee stage to the Bill we have before us. At times it is impossible for us here to hear what he's saying. I wonder if hon. members could either lower their voices and laughter a considerable degree or, having received permission from the Deputy Whip, could proceed to the Confederation Room or other place.

Hon. Member for Calgary-North West.

Debate Continued

MR. BRUSEKER: Thank you, Mr. Chairman. I want to be clear in my comments here. I'm in no way trying to cast any pharmaceutical firm or research firm in any kind of negative light. My concern here deals with the individual patient, and that's the angle I'm trying to pursue here. So please don't misconstrue my comments.

My concern is that if the information gets out, then there's no way to recapture it again. Once a person's medical history is out, whether all of it, a portion of it, or a portion that deals with a certain illness or ailment, then there's no way to recapture that. This section allows for that information to be released if someone "is satisfied." I guess I would just like to have some way of ensuring that that satisfaction has some rigour to it, that indeed there is a process that must be followed. I would hope it would be something at least in writing as opposed to simply an oral agreement. I would hope there would be some kind of process followed that shows what the ultimate goal is going to be of the research that is occurring, who will be given access to the information, and those kinds of details. So that's the concern I would raise with the Member for Olds-Didsbury.

On the next page, section 8.1, there's a reference there that "the Minister or a person authorized by the Minister may disclose information obtained under the Blue Cross agreement." Again, perhaps just a question I would like to raise with the Member for Olds-Didsbury, simply because it's mentioned in here. For example, we have had changes to the drug benefit list. Those items that are simply available at all – whether available at low cost or not is another issue – are they available in generic form or in trademark form? Are they freshly listed? Are they delisted as items?

Since the Blue Cross agreement is on here and we have seen changes, for example, to the list of drug benefits that are available, is there any indication of any intention of the government under this legislation, this amendment to the Alberta Health Care Insurance Act, to change the Blue Cross agreement, either in terms of what is available under the Blue Cross agreement or in terms of the fees levied against individuals to access the Blue Cross agreement?

The reason I raise that is very simple. The track record of the government is clear. The drug benefit list has changed. The fees that are payable certainly by seniors are an issue that has changed substantially. I've had a number of constituents come to see me expressing concerns. They're either just under or just over the border line. Do they pay the full $192, I think is the cost? Do they pay a partial fee? Do they pay no fee? That is an issue for seniors. If they are then expecting or anticipating changes under the Blue Cross agreement, then they could be hit yet again in a new fashion, in a new direction with costs for seniors.

Unfortunately, the reality is that as we age, our bodies require a little more attention in a little different way, which unfortunately has some costs from time to time. If there's some intention here again to change the Blue Cross agreement, then indeed we could be running into some difficulty from a financial standpoint for certain individuals.

Mr. Chairman, one of things this Bill does, of course, is change the extended health services and talk about "basic health services" and "extended health services." I'm referring back to the original Bill, the Alberta Health Care Insurance Act, RSA 1980. We have to go back, even though it's not specifically referred to in this particular Bill. It talks about goods and services. This is section 1(j) of the original Bill. It talks about

> "extended health services" means those goods and services or classes of goods and services that are specified in the regulations . . .

There's that phrase again, Mr. Chairman, "in the regulations."

> . . . and provided to a resident or his dependants under section 3(2).

So if we're going to start seeing changes in definition of what is extended health services on one hand and basic health services on the other, it will make things more difficult for individuals to really understand what kind of coverage and what kind of protection is being provided to them.

Those are a few questions I have for the hon. member who's sponsoring the Bill. Just to recap quickly. How is he going to deal with the issue of "is satisfied"? Are potential changes being considered to the Blue Cross agreement? I'm wondering if the member could clarify, I think, for all Albertans, and I would suggest seniors in particular, how it is that changes of definitions to basic health services and extended health services may in fact change the delivery of health services that individuals require.

With that, I'll close my comments, and let other members have a chance to speak. Thank you.

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

MR. WHITE: Thank you, Mr. Chairman. This particular piece of legislation, although I have some sympathy for it, needs to be tightened up in one particular area that concerns me somewhat. That's the area of disclosure, of course, which we're all concerned about, and so we should be. I mean, we're dealing with people's lives, and it doesn't take a great deal to upset one's life

when the information has been allowed to be public or semipublic. We all know from the reading we've done in so many different areas that the effect can be devastating.

I draw your attention to section (5.2), as my colleague for Calgary-North West did also, the area that it says authorized persons and the minister is satisfied. The minister can satisfy himself basically that the information should be released. Well, that would in a normal instance be enough for quite a few people had this not been release of information on individuals. Now, the difficulty I have is that there's no culpability here. You read further in this Act and another Act that the minister absolves himself of all responsibility, as we have seen in this House before with private information. That doesn't seem to matter. We have little or no rules as to what the effect of it is.

There is no remedy for a minister. A minister just washes his hands of it entirely and completely. I'm saying look what happens under sections (5.2) and (5.3) if someone – and that's bound to be the case. We know that. That's the nature of the business, that the information that is given out is in fact detrimental to the life of an individual. Who adjudicates the matter as to whether there are damages here? Who levies that fine? Is that a court? If that is a court, what's the remedy in civil law for the offended person? Certainly the state takes a piece of the action in a $10,000 fine, which is all well and good, but in fact the information is authorized to be divulged by the minister. Now, how does one that is using that information – and in fact has further authorization under another section to know who that person is and exactly where they live. That is given by ministerial permission. Well, then, how do you enact a $10,000 fine if you're guilty? Does the minister cough it up? Not likely. We know that. Civil law certainly doesn't allow one to sue the state for information that the state has, at least not yet, and under freedom of information I'm not sure how that manages either. Quite frankly, it concerns me a great deal, this area. At least all the notes that I can see and all the readings that I can do – although I'm not perhaps trained in the law, I do read English, and it does not say anywhere where the kind of occurrence that I have described cannot occur, and there isn't any remedy for it.

8:30

There are other provisions that concern me but not to near the extent as this particular one, and I would really call on the proponent of this Bill, if at all possible, to alleviate the fears that I have either by explanation, pointing out specifically where these protections are, or in related Acts such as, of course, the freedom of information Act, which is yet to be proclaimed, I might add. If in fact those fears can be allayed, then it is quite possible that this member may in fact vote for this Bill.

Mr. Chairman, it's rare that I give up my remaining time for other debate, but this time it does happen.

Thank you for your time.

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

MR. ZWOZDESKY: Thank you, Mr. Chairman. I'm happy to enter this debate on Bill 45. I have just a few concerns I'd like to share with you and with other members of the House.

As I read through the Bill, I confess I had to look through it a couple of times to try and grasp the total meaning of it. I had to flag a few areas of concern. I think the underlying premise that concerns me most in this Bill is the attempt by the government to move us toward the user-pay system in our health care area without any real regard for what the consequences of that move might be. It seems that more often than not we're seeing the government use this ready, fire, aim approach on so many things, and this quite possibly is another one of those. We see here the basic creation of a two-tiered health system, certainly at least two different systems that the public would have to wrestle with. One of them would cover some of the very simple, basic elements of health care, and another one would deal with the broader spectrum of health goods and services, for which presumably we would all have to pay.

The other large area of concern to me is section 2, which seems to allow a rather carte blanche release of medical information associated with individuals. I say carte blanche because I think the ramifications of the way in which the government opposite has demonstrated that it treats information of a confidential nature really bears looking at. In that regard, I would roll in the comments of section 3, wherein under certain circumstances the minister may disclose information about individuals. I read this area with great caution, especially in view of recent events that have occurred with this government and within this House and even outside this House, Mr. Chairman, when we look at certain of the ministers opposite having waved information of a confidential nature around down in the Legislature cafeteria. That issue, of course, is going to be decided upon shortly.

It scares me somewhat, Mr. Chairman, to realize how much power the minister and the government are taking, through this Bill, for themselves, while on the other hand they're not as prepared to give up information. It seems that what they're wanting to do is get into everybody else's life, but they don't want anybody to get into their government life. It's a two-tiered system of information. I don't see any reciprocity by the government. I don't see them coming halfway to meet the public by being open and accountable with their information, but they keep asking for more power to control more information on their own, and that really bothers me. It's not unlike some KGB tactic, and we've seen where that landed them.

For example, we still don't have the freedom of information Bill proclaimed, which would give the public more access to information about what this government's doing. That Bill, as you know, we have ultimately supported, in spite of the significant watering down from what was initially intended when our hon. Member for Edmonton-Glengarry first proposed it back in 1989. We still haven't seen the government come clean on that proclamation. They haven't finished it off. They seem to be dragging their heels with it, yet here comes another Bill where they're asking for more information to be put into their power.

We see the same difficulty even in our own question period, Mr. Chairman, where we're trying to gain information. As you know from having asked the odd question yourself, I'm sure, we don't always get answers to even the most basic of questions. There is an answer provided but very, very, very rarely the answer, perhaps never.

I really get frightened here on behalf of the many Albertans that are going to be affected by this sensitive information suddenly housing itself in the power of the minister. Well, quite frankly, Mr. Chairman, what if the minister is having a bad day that day, and as may become proven shortly, he's having such a bad day that he exercises poor judgment and releases the information to the wrong person or he releases that information at the wrong time? Haven't we seen that example here where some senior bureaucrats have received some of that information and used it for purposes other than intended? I wouldn't want to see any ministers having those bad days anymore, but we don't seem to

be out of the bad day syndrome yet. Perhaps this characteristic style of this government will continue for some time on. I wouldn't want to see the people subjected to any more of it, as is possibly the case here with Bill 45.

I see also the need here for us to tighten up how that information, when it is released, gets dealt with through the powers that we have in front of us. For example, we know that in the east when ministers released information, one in Nova Scotia was asked to step down and another in Ontario was asked to step down. We'll wait and see what happens here to the current case before us, but I'm sure that that will be the eventual outcome there as well. So why put ministers into that difficult situation through this Bill? It seems to me that the government is doing it to itself here yet again. As is characteristic of most of my speeches, Mr. Chairman, I like to be preventative in my doling out of good medicinal information here, and I'd like to be preventative in that regard again and try and caution the government from carrying through with this. It's not in their best interests, and it certainly isn't in the best interests of the many people in Alberta.

The other part of this is the doctoral side. The doctors themselves have special and what I would like to consider extremely unique relationships with their patients – I'm sure doctors on both sides of the House would agree with that – and through this enactment I think could place in jeopardy that very delicately balanced patient/doctor relationship.

We have seen the recent privatization of registries, for example, Mr. Chairman. That, too, is another pool of information which is highly sensitive and certainly is valuable to all people, but in the hands of the wrong people it can be used for other than altruistic purposes. Information with regard to drivers' licences and birth certificates, land registries and whatever have you is available now on all computers. We're in an era of high-tech computerism, and part of that computer world does also have some downfalls. It's called computer piracy. We've been through many debates in this House on the protection of the privacy of individuals, but we don't see that accounted for adequately enough in this Bill.

8:40

I know that section 3 goes on, Mr. Chairman, and talks about how information may be disclosed for bona fide medical research purposes and that individuals will be given the choice of whether or not they want their name to go forward. But the fact is that the information is already there and available and could be easily extracted at anyone's whim. So while it sounds okay on the one hand, I really do worry that there is the potential for abuse.

I tend to run away from those kinds of risks when other people's money is at stake or other people's reputations are at stake or the sensitive kind of information that none of us would like revealed because of confidentiality. Doctors surely haven't had a chance to look at this carefully enough. In fact, I wonder if they've been consulted at all, because I doubt that they would be very much in favour of this going through.

In fact, I was listening with great interest as my colleague from Calgary-North West spoke moments ago and quoted some feelings I think of Dr. Moriarty, the new president of the Alberta Medical Association. It seems to me that when Dr. Moriarty was first elected to his position not all that long ago, he flagged the government's concern right after his election that there wasn't enough money in the health care system now to provide for the very basic needs that Albertans require, much less the needs that would fall by the wayside if the next round of cuts are just as poorly planned and just as devastating. I think we see the beginnings of that already.

What concerns me here is that we have the government of Alberta not wanting to listen to the president of the Alberta Medical Association when he's talking about something that is fundamental to all of us: good, proper, adequate health care. On the other hand, we see the government standing up in this House and rescinding a decision on an appointment of the former Deputy Premier because the oil and energy sector in combination with the Liberal opposition have put such pressure on the government that they had no choice. So when one part of society talks, it seems the government listens, and it would behoove them to step back and listen when other parts of society speak as well. They are supposed to represent all Albertans, not just certain pockets of that. When Dr. Moriarty speaks to them, he is speaking about issues that many, many doctors across all of Alberta have brought to the floor, and I think the government should at least slow down, take a look at this. There may be something to be learned from those concerns.

The other part of section 3 that caught my attention, quite honestly, Mr. Chairman, was with regard to information that may or may not be released to the Alberta Pharmaceutical Association in checking into certain complaints against some of their practices or dispensations or other things that pharmacists might become involved with. I haven't yet had a chance to speak with the pharmacists that I know, but I hope to be able to do that in the next few days to round out my thinking on this part of the Bill on their behalf. It seems that again there's a desire here to allow more information to flow to their hands, so what we've got here is information that would otherwise have been held in a more confidential nature by doctors flowing out to ministers. Ministers in turn have the right, I believe, under this Bill to discuss and disclose that information to whomever they might want to, and in turn now we have pharmacists as well involved. It just seems that there are so many different opportunities for this information to go out there that somewhere along the line one envelope is going to get mailed to the wrong place. It's bound to happen. So why would we put that at risk?

We've already seen the devastating effect that some of this misused information has caused to the family of the abused six-year-old child in Calgary. We've seen what's happened with that. This is not the first time that has happened, Mr. Chairman, as you will recall. That particular minister had another strike against him earlier in the year. Perhaps it takes three strikes to put him out. I don't know, but I wouldn't want to see that put at further risk. So as I look at this and the possible, I guess, abrogation of duty and responsibility by ministers, I get very concerned that we do not and should not allow this particular Bill through without more consultation and certainly much more discussion.

The other part that concerns me here is that there seems to be the ability within this Bill, Mr. Chairman, to also share information with other programs or I suspect other departments, and we know now that for example seniors have just moved from the hands of the Community Development minister over to the Health minister. I believe that change just occurred in the cabinet shake-up. So we had a whole bunch of people over here with access to information. That information hasn't gone away. They presumably still have some of it. Now the information has gone to another department.

Again, I just get back at this: the government seems to be opening these floodgates mostly for itself, and to what purpose? It's just not clear to me. We know that information tends to leak out. Certainly we've seen enough government leaks, as they were, documents going to wrong addresses, whatever have you, and that information, especially medical information, surely must

be among the most sensitive of information that anybody could ever have about someone else. We're not talking about just what your optometrist might have on file. We're talking about much more serious stuff as well that could impinge on people's rights in a very dramatic way, things to do with sexually transmitted diseases, for example, or psychiatric illnesses or whatever have you. These are very, very serious areas, and I look at this, then, and I try and make some sense out of it all and say why is the government doing this, and especially why is it being fast tracked? I guess we'll have to wait some time to see the result of it because I'm sure the government is bent on doing it no matter who says what. So we'll just have to live with it, but at least for the record I think we need to register some of these concerns and complaints.

The other part that I just want to comment on in summary here, Mr. Chairman, is with regard to this so-called two-tiered health system and the potential for it to come into Alberta. I was very concerned when I heard about the people from the United States of America, the so-called medical experts, who were coming up here to review our system and at the same time to interview our doctors and our nurses. My concern stems from the fact that I think that while we have provided tremendous educational and training opportunities here with state-of-the-art equipment, with some of the best medical research available – everything by way of top-notch facilities has been provided to our students – now in turn we don't seem to be able to reap the full benefit of that. We see a brain drain starting. Not only that, but I think we also risk not being able to attract in return the kind of specialists we need, be it in medicine or education or elsewhere.

When I talk about a two-tiered health care system, I recall when I was in the States about a dozen or so years ago and a whiplash injury that I was suffering from caused me to rush to emergency. That one and a half days in emergency care in the United States would have cost me somewhere in the neighbourhood of about $2,000. So I know firsthand that had Alberta health care not been there to help out in the situation that I found myself in – and I stress to you, it was not one that I put myself in; I was whiplashed by another motorist – I certainly wouldn't have been able to afford that health care. I might still be there for all I know, because it was extremely painful. So I think we need to speak about this potential for two-tiered health a little more deeply. I think we need to make sure that whatever it is that we discuss or allow through as legislation protects the fundamental individual rights, in this case the rights to private information being retained.

I emphasize to you again here, Mr. Chairman, that this becomes more an issue of trust. Last week I spoke somewhat at length about the issue of trust. This Bill asks for even more trust, it seems to me, to be put into government. I think that what they're doing here is putting all of that trust at even greater risk, and I cannot support it.

8:50

I think they are perhaps putting in jeopardy the very Hippocratic oath that doctors would take. At least the spirit of that Hippocratic oath surely comes into question and whether or not it will potentially be violated, or will doctors be asked to violate it. Because this Act gives ministers the power to go in there and potentially extract information that otherwise they wouldn't have been able to.

It's very likely that the medical profession was again ignored in the preparation of this Bill. It appears to have been hastily put together, and I still am trying to grapple with what the net effect of all of this is. We're talking about some very fundamental changes here on the surface, but underneath we're looking at very profound changes to what we call basic health care services, which includes everything from oral surgery at the dentist's to optometry services to osteopathic services to services provided by podiatrists or chiropractors. Then there's that beautiful section that also says "services classified as basic health services by the regulations." That always scares me, because I never know full well what it is that they mean when they start to talk about regulations again, more and more government by regulation, a little evasiveness perhaps on the part of the legislation.

So I would encourage the government to please consult with the Alberta Medical Association, at least with Dr. Moriarty. Surely he's not against the government. He's trying to work with the government for the provision of top-notch health care services here in the province. I think he deserves to be heard. I think, too, there are other members on this side that deserve to be heard, and I'll move to them shortly.

Is that the bell already?

MR. CHAIRMAN: It's only 20 minutes.

MR. ZWOZDESKY: I'll continue on with the amendment. Thank you, Mr. Chairman.

MR. CHAIRMAN: The hon. Member for Bonnyville.

MR. VASSEUR: Thank you, Mr. Chairman. I, too, have some concerns with the proposed legislation. The first one is the plan to release this confidential information on individual patients. I know in the announcement that the government has said that this data would be released on a very confidential basis. It would be consistent with the freedom of information and privacy Act, but how can we find any comfort in that at all when that Act has yet to be proclaimed? Maybe we should wait until the particular Act is in place before we make another piece of legislation subject to it.

Like the gentleman from Edmonton-Avonmore was saying, the concern here is taking some of the very private information from personal files that some individuals may really not want released. We know that the government may be wanting to act in very good faith here and hoping that the information is all kept nice and confidential, but we also know that there are some possibilities of some leaks. It is of great concern, and somehow I don't think it's very proper legislation.

The second area of concern that I have is the amendment to section 37 in the Act on page 3, section 4(1). It reads:

> The goods and services that may be provided under the Blue Cross agreement are goods and services that are not basic health services or extended health services.

Now, that really, really is a concern. I've read that numerous times and to me it basically says that Blue Cross has the authority to define what the goods and services are that they will provide, and that doesn't rest well. If Blue Cross can make that definition, who says they cannot reduce the basic health services that are in the Alberta Health Care Insurance Act at the present time? If you look at section 1, it says, "Services classified as basic health services by the regulations." So there's nothing that prevents Blue Cross from deregulating some of the basic services that are insured by Alberta health care at the present time. If that were to happen, maybe there should be more than just Blue Cross who has the ability to provide those services, and if that were to happen, of course, we're looking obviously at a two-tiered system where basic health service is reduced. The people that are fortunate enough to have the money to be on a Blue Cross plan or a plan

that's equivalent to it can afford it, but unfortunately there's a lot of people that are going to fall through the cracks on this one.

Again, those are my two basic concerns on this Bill, and I will not be supporting it, Mr. Chairman.

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

MR. SEKULIC: Thank you, Mr. Chairman. I, too, rise to speak against Bill 45. As I went through the Bill, I found that I could cite at least four highlights of the Bill. The first that I saw or the intent of the Bill was that the Bill would change the definition of goods and services provided by Blue Cross insurance so that they are restricted to those that "are not basic health services or extended health services." Secondly, it appeared to provide for the release of information to the Pharmaceutical Association for purposes of investigating a complaint. Thirdly, the Bill would allow for the release of medical data to be used for bona fide health research that is authorized by the minister. Finally, the Bill would provide that for all the medical research the minister must contact the individual who has received health care services to ascertain that "the individual consents to being contacted by the researcher."

Mr. Chairman, as I went through the Bill – and it fortunately was unlike the other Bills that we've been given in the last two weeks in that it could be read in a relatively short time period – I had particular concerns with the third highlight, and that's the provision of information and medical data. This particular point is covered in points (5.2) and (5.3) of the Bill. Now, what it reads is:

> The Minister or a person authorized by the Minister may disclose, for the purpose of bona fide health related research, any information obtained under this Act or the Health Insurance Premiums Act, including the names of individuals to whom the information relates, if the Minister or authorized person is satisfied that the person conducting the research will not reveal or make identifiable the name of any individual to whom the information relates without the consent of the individual.

Then it goes on to say in (5.3):

> A person who receives information under subsection (5.2) and reveals or makes identifiable the name of an individual to whom the information relates without the consent of the individual is guilty of an offence and liable to a fine of not more than $10,000.

Well, Mr. Chairman, last week, I believe, such an error had occurred in the Department of Family and Social Services, where there was a disclosure, intentional or otherwise. I believe information similar in nature in terms of severity or degree of privacy was released, but it seems that that matter has gone by, and it's been dealt with almost as if it was water off a duck's back. I'm concerned particularly as one of the former panel members of the freedom of information panel. As we traveled the province, I heard many of my colleagues who sit across the floor very much concerned with the access issues, with the privacy issues, with the government's ability to handle personal information. At that point we had difficulties, because we as an opposition were concerned with public information and the openness of public information and access to public information. So we seemed to be coming from two different arenas. Yet now it seems as though the tables have turned, because now we're protecting the rights and privacy of an individual and the government members seem to be endorsing through this Bill access to that information. So I think there's an inconsistency there, and that's of concern to me. I have to say, Mr. Chairman, that is my primary concern with this Bill.

I need not go on. I've said everything that I need to on behalf of my constituents. With that, I'll pass the floor to a colleague.

9:00

MR. CHAIRMAN: The hon. Member for Bow Valley.

DR. OBERG: Thank you, Mr. Chairman. I'd just like to take this opportunity to address a few of the points in this Bill as well. One of the tragedies that has occurred, as you probably know, is that there are physicians who are prescribing medications that cannot be tracked. Probably the best example occurred in Calgary recently when a doctor by the name of Dr. David was implicated in several problems in his prescribing habits. This had been going on for years, and the College of Physicians and Surgeons was unable to track this due to the lack of information that is being transferred.

What this Bill tries to do is track some of these people. The opposition has taken the tack that the information is best kept hidden in respect to the patient's records. I will take the other tack and say that information is often best shared. The pharmacists and the Pharmaceutical Association under this Bill would have access to such necessary information such as what other medications that patient is on so that when you come in for your medication, they can tell you if you are going to have a potential drug interaction. At the moment that information is not available.

As you know, Mr. Chairman, often patients travel from pharmacy to pharmacy and from doctor to doctor, and there is no way to track this information to determine if there are drug interactions, if there's potential abuse, if the patient is receiving medications from more than one doctor. This Bill addresses that and allows for that information to be transferred through the Pharmaceutical Association.

Chairman's Ruling
Decorum

MR. CHAIRMAN: Order, hon. members. I wonder if the hon. members in the vicinity of the speaker could go and talk elsewhere so that the speaker may keep his thoughts clear and we can hear.

The hon. Member for Bow Valley.

Debate Continued

DR. OBERG: Thank you, Mr. Chairman. There's one other point that this Bill addresses, which is that of medical research. As you know, one of the areas that we are most interested in in health care restructuring is the determination of outcome data, and there's only one way that we can do that: by collecting information from patient sources. You may or may not know, but every time a patient comes to see a doctor, he is assigned a diagnostic code that is entered into a central computer bank. At the moment that information is only used for billing purposes and is not used for things such as epidemiological data. This can provide a great wealth of information about the health of Albertans and can lead to a lot of research that will improve the life of Albertans. This does not have to be patient specific; however, the Bill does make reference to specific patients and releasing that name providing that it does not harm them essentially. There are fines levied against them if the information that is given to researchers is used in an adverse way.

Mr. Chairman, this is a Bill that allows for the introduction of information technology. It allows for the transference of information. It allows for the health care system to come into the 20th century. I think it's something that rather than frowning on, you should look at the way it can be an advantage to patients, how it can improve patient care, how it can improve research, how it can cut down abuse, how it can stop fatal drug interactions. The

opposition has chosen not to look at this, and I hope in their considerations they will look at the positive impacts of this Bill.

Thank you.

MR. CHAIRMAN: The hon. Member for Edmonton-Mill Woods.

DR. MASSEY: Thank you, Mr. Chairman. I'd like to address my comments to the sections in the Bill that specifically deal with research. I have to admit that I do have some sympathy for the Bill and the aims contained therein. The issue that it raises – and the previous speaker touched on it, but just briefly – is that balance between confidentiality and the advancement of science. I think on the side of confidentiality we have to look at the interests of patients and the interests of medical doctors. Contrary to what the previous speaker has said, there is some fear in the medical community about confidentiality. The head of the association indicates that doctors are wary of the Bill and goes on to indicate that any release of data could jeopardize the relationship that doctors have with their patients. The specific information, he said, could violate that doctor-patient relationship. He cautions us against any legislation that could infringe upon that relationship. He goes on to further advocate that physicians continue to be part of the process, that somehow or other they are kept as part of this continuing process. So there are some legitimate fears from the medical community about the legislation, but more importantly, there are fears from patients. That fear is that somehow or other, inadvertently or otherwise, their medical history will become public and that knowledge could in some way cause them personal or public damage. There's also the fear of the invasion of privacy, their right to have and hold their own affairs to themselves.

So on one side we have confidentiality and the fears raised by both the medical profession and by patients. On the other hand we have the advancement of science. Researchers, in their search for providing better cures and better treatment and better prevention, have to have access to information. In most cases, particularly in this case, having access to patients is crucial to the furtherance of their work. Their fears are that they are going to be denied access, that they won't be allowed to contact those individuals who can help them in their search. They do have, as I indicated, some very legitimate interests. For many researchers the task is difficult enough in trying to gather money for research, trying to house that research in an institution, and making sure that all parties' interests are taken care of. This Bill goes some way in helping break down some barriers that I'm sure many of them have had to suffer.

I think that balance, then, between confidentiality and the advancement of science is at least one way we can look at this Bill and ask: what are the protections in terms of patients? What are the protections for doctors? I think it'll be little comfort to patients that after information is released, the doctor could be fined $10,000. It's a little late and small comfort once information is made public.

[Mr. Clegg in the Chair]

I think there is another party in this, too, that causes some difficulty, and that is that there are going to be health care administrators involved in handling this information. Again, fining one of those individuals $10,000 after a piece of information has been made public would not, I don't think, make many patients feel that the problem or the situation was adequately handled. I think that researchers, too, have some fears, because they aren't the sole owners of that information. There are going to be people from the health care department; there will be other people involved in handling that information. Exactly what are they responsible for? What if information does become public? How do you track the source? Where did that information come from?

I think, Mr. Chairman, that the Bill addresses that need to know on the part of researchers, and I applaud it for that. I think it's a necessary piece of legislation. I think it can be made better, and we'll suggest some amendments to that end.

Thank you very much.

9:10

MR. DEPUTY CHAIRMAN: The hon. Member for Cypress-Medicine Hat.

DR. L. TAYLOR: Thank you. I didn't realize you'd recognize me. I'd like to speak to this Bill just for a minute. As one who was involved in research for a considerable portion of my working life, I recognize the importance of research and the importance of confidentiality. There has to be some kind of balance between research and confidentiality if we hope our science is to progress and our knowledge base is to grow. I think this Bill does exactly that. It provides the balance between confidentiality and research and the ability for the knowledge base to grow. I think it does it in a number of sections. In section (5.2), for instance, it says quite clearly:

> The Minister or authorized person is satisfied that the person conducting the research will not reveal or make identifiable the name of any individual to whom the information relates without the consent of the individual.

So it's quite clear that the individual must be a participant in this research. I know that when I was involved with research, we always had to obtain individual, signed consent forms. In this way we protect the individual.

If we go on to section (5.3), "a person who receives information under subsection (5.2) and reveals" it, there's a $10,000 fine. Well, researchers are very sensitive to this issue of public disclosure, and this will make them even more sensitive. No researcher is going to attempt to get information out that they shouldn't, just in terms of the ethical considerations involved with research. Since many of these researchers are university professors, universities all – I shouldn't say all, but the ones I'm familiar with – have ethics committees. Research must be approved through the ethics committee, and the ethics committee of course is aware of these issues. Then on top of this you've got this $10,000 fine as a penalty.

Section (5.4): the researcher "shall not contact an individual to whom the information relates unless," and there are a number of conditions. The main condition there is that the minister must contact the person and see if they wish to be contacted, and if the person says no, then the researcher will not be allowed to contact that person.

So I think this Bill does protect the individual, it does protect privacy, and it does protect confidentiality, but at the same time it walks that fine line of allowing research to continue and our knowledge base to expand. I must say it is a fine line. It's like walking a very sharp knife, and you don't want to slip. So you are walking that very fine line. This Bill does exactly that.

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

MS CARLSON: Thank you, Mr. Chairman. On first reading of this Bill I would have to say that it looks quite innocuous and I

considered supporting it, but as I go through it line by line, it in fact raises some very serious concerns for me. There's no doubt that this Bill clarifies the function of the Alberta Blue Cross insurance plan to restrict the services provided to those that are not basic health services or extended health services. So what that does is give Blue Cross the power to decide what is and what isn't a core service in terms of basic health services and extended health services. Well, my question is: why should Blue Cross have that kind of authority? Why should they have the mandate to make the decisions on what core services will be and won't be? Shouldn't that better be a power of the Legislative Assembly and of the Health minister and the committees that she consults with and then those outside groups that are currently contributing to these decision-makings, like the doctors involved in the care of the patient, like the pharmacists involved in the care of the patient, and like the patient himself? Why would we have an outside body like Blue Cross now having that kind of authority to come in? They will decide what is an appropriate medical service, and really this is not an appropriate mandate for this kind of a service to be providing. An insurance plan should not have that kind of power over any individual, individually or collectively. I don't believe that should be the intent of this Bill, and I'm very disappointed that it tends to lean that way.

Let's just talk about seniors' drugs for a moment. We already have a situation where extended drug benefits have been eroded by the cutbacks that we've seen here in the medical system, and now we're giving Blue Cross additional power. They as an insurance plan can consult with the government to decide what else is going to be insurable or not insurable with regards to seniors. This therefore allows Blue Cross to determine the drug therapy for these people. Now, what would seem to be a better course of action is that the doctors and the seniors who are affected continue to consult with each other and establish a fair and reasonable drug plan for themselves and for whatever ailment they've got. What this Bill does is allow an outside insurance plan to determine the therapy and to determine in fact how much it's going to cost and how much it won't cost and how much will be reimbursable and how much won't. I find that to be reprehensible behaviour for the government to be taking a look at, and I'm very surprised that this is the step that they would be taking.

What this does also, when you give a plan that kind of power, is create new market opportunities for other insurers to move in and pick up the slack, pick up those drugs that Blue Cross is not currently insuring or that Alberta health care is not currently insuring. That of course is well on the way towards a two-tiered system, which is certainly not in the best interests of the people in this province, particularly those who can least afford to pay in a two-tiered system. We will certainly be moving a long way towards the haves and the have-nots in this province with this Bill.

We don't need two parallel insurance systems here in this province, and that's what this Bill does by giving Blue Cross insurance the right to decide what changes should be made. That means that we're going to have a government system here that covers only the very basics, and the other one, which is going to be a user-pay system, which, as we all know, is just another name for a tax in this province, for all other health goods and services that Blue Cross will be deciding not to cover.

We've already seen in this province the deinsurance of physiotherapy services, and now we have the potential for deinsurance of eye examinations. Again, this is just another step along the road to a two-tiered system, and I don't think that this is what the Premier has been preaching out on the road as to what it is that he's going to be actually doing for this province. If that's what his intent is, then he should be openly telling the people of this province that that's his intent.

When the government introduced this Bill, they described it merely as housekeeping. Well, it looks like housekeeping if you just take a quick glance at it, but as you go through it line by line by line, you see in fact that's not true. There are very, very significant changes to our health system here that are going to have permanent ramifications for all the people here in this province. If we look at section 2, it allows changes to the regulations to allow the release of medical information associated with individuals. Well, that has immense ramifications for people throughout the province. I don't want my medical information released or my children's or my parents' or any of my friends' or relatives'. There's nothing in this Bill that indicates what kind of security provisions will be in and around this change that will prevent this information from getting into the wrong hands, even if it's getting into the wrong hands inadvertently.

As my colleague for Edmonton-Mill Woods and also my colleague for Edmonton-Avonmore said, and this cannot be repeated too often . . .

9:20

MR. SEKULIC: Edmonton-Manning.

MS CARLSON: And Edmonton-Manning. Thank you.

. . . this is something that we have to keep of paramount importance before us. These records cannot be indiscriminately accessed by anybody. We have to have the most stringent of controls in and around them. I see nothing in this Bill that addresses that need, that very determined need to provide for that, and I see nothing in the behaviour of this government over the last year and a half to indicate that they would in fact be able to provide that kind of security. This is very disconcerting for me, and I'm sure that it would create great discomfort for any person in this province who would see that this is in fact what this really means.

Section 3 of this Bill expands the circumstances under which the minister may disclose information about individuals. Well, again, as my colleague for Edmonton-Avonmore said, we had a perfect example this past week here in the Legislature of what happens when a minister isn't paying attention to what they're supposed to be doing and discloses information that is personal and confidential. It creates significant difficulties for the person who had their name and address and circumstances disclosed, and it also creates difficulties for the people that information was disclosed to. Again, there's nothing in this Bill to address how those concerns will be fixed and what kind of circumstances we're going to have around the actual security and the confidentiality of this information.

The Member for Bow Valley stated earlier that we as a party, the Official Opposition, think that information is best kept hidden. Well, he is deliberately misinterpreting what has been said in this House. There is no attempt on this side of the House to keep information hidden. In this case what we are speaking to is the confidentiality of records, which is a very important issue. Particularly he as a doctor should understand the difference between hiding something and maintaining confidentiality, because it is supposed to be a part of the mandate of his professional practice. There's a huge difference from that, and we need to make sure that it's understood and that confidentiality is what we're talking about here. We're not talking about hiding anything. This Bill does not provide for maintaining confidential-

ity in any format that is recognizable to us on this side of the House or in fact to the people of the province so that we can have any sense of security in and around it. So those are concerns that we definitely have to be very concerned about.

Section 4 here adds a section that states that only "goods and services that are not basic health services or extended health services" may be provided under the Blue Cross agreement. Well, this is merely to clarify the original purpose of Blue Cross, which is not to duplicate the services offered by Alberta health care insurance. This may be in fact the original intent here, but there's significant concern that as more and more services are deemed nonessential, the need to purchase Blue Cross or some other independent medical insurance increases. In fact, we see that with all the discussion now in and around eye examinations or extended physiotherapy needs. Again, this most particularly affects those who can least afford to pay for it, particularly those people with low disposable incomes or seniors on fixed incomes. Seniors particularly are those who most require these services and who in fact may require these services in a very legitimate fashion in an ongoing fashion many times a year, many times more than what is currently covered. It's something that we have to see addressed in this Bill, which simply is not. Section 4 of the Bill, which specifies the goods and services, is very bad because they can be redefined by government at any time. So what today may in fact be an essential service can be changed tomorrow or the next day or the next day.

What are we talking about when we talk about a minimum level of health care in this province? What we're seeing and perceiving it as in today's world is quite different than what it may be in the future depending on exactly what cost cutting measures the government of the day decides to effect that day. So we could see a system here in Alberta where in fact you couldn't even get government hospital admittance, where you would require additional health care insurance to get what we would say today is the most basic service. That's something that we have to be very concerned about, because when we talk about the universality of medical care, which has been a Canadian institution and which has been a good institution for this country, we don't need it to be undermined in the manner that it is here.

I'd have to address again the release of medical information, and Member for Bow Valley was alluding that we would rather see this hidden. We have to talk about the rights of individuals to refuse to have their information released to anybody who may have access to it under this kind of legislation, and I think that's a very serious discussion that we have to have.

I'd like to go back for a moment to the comments that the Member for Olds-Didsbury made on October 27, when he initially addressed this Bill. He spoke about providing information to researchers, and he talked about:

> Protecting individual privacy remains the overriding concern in any policy on disclosing identifiable information, but there is a balance that [they] have . . . tried to strike between privacy and the value to all Albertans of using information for legitimate purposes.

He was addressing here the research applications that we see in this Bill. I would have to state that you would never have researchers have access to this information while disclosing private matters about an individual which really are not what the individual is requesting or requiring or in fact wanting to have happen. I think when you're talking about striking a balance between privacy and the value of researching, the balance always goes on the side of privacy, that you have to have full disclosure from the person talking about it. This Bill does not specifically address this need.

In fact, we do now have access to research, and if any of you members have recently been for day surgery in any of the hospitals in this province, you will note that they are requesting each and every person who undergoes a procedure to sign a release, which will allow for follow-up information, which will allow for researchers to look at and debate the procedure that you undertook and to do some long-term follow-up in that regard.

I don't know that we need to address this matter in greater detail than that. To legislate that it's okay for researchers to have this information I think is a move in the wrong direction and something that we are trying most definitely to get away from. There already is active ongoing research occurring in this province, and to legislate that that information has to be released to researchers moves away from the mandate of less legislation here and moves towards limiting and restricting what we as individuals have control over in our lives, particularly with regard to our medical records. I think that's something that needs to be brought to people's attention. It's a serious concern, and I believe that it needs to be dealt with before this Bill can proceed any further.

9:30

The Member for Olds-Didsbury also referred to the information in the Bill.

> . . . includes basic personal data on people registered with the insurance plan. It also includes diagnostic codes and services provided as reported by practitioners. Registration data would be released on a selective and confidential basis to bona fide researchers and to health service administrators.

Well, this just raises about a million red flags for me. How much personal data are you going to have registered with different insurance plans? Who is going to have access to that information? What kind of confidentiality is there around the people employed in these companies, and what happens when they leave the employ of these companies? What data do they take with them? What kind of confidentiality rules are you going to impose on them? How are you going to see that in fact the information maintains confidentiality?

"Diagnostic codes and services provided as reported by practitioners." Well, again this means every time you add another layer of bureaucracy to a form or to a person, you open up doors for there to be mistakes occurring. What access are people going to have to this information to ensure that what is there in their records is true and accurate and that in fact proper codes have been assigned to them and that proper services have been reported? There is nothing at all in this Bill that addresses this. I think it's going to require quite a bit of amending or additional redrafting in order to come up to speed in terms of what's actually going to be acceptable and meet the needs and requirements of people.

It says, "Registration data would be released on a selective and confidential basis to bona fide researchers." Well, who determines who a bona fide researcher is? Who determines how and when the information will be released? How much of what's going to be released will be disclosed to the person whose information it really is? There's nothing at all in this Bill that addresses that need either, and I think that requires a great deal of investigation.

When we talk about releasing it "to health service administrators," well, who exactly are health service administrators? How far are they down or up on the rung of the release of information that's going to be out there about individuals? Now we've got the insurance companies with the information. We have all of their staff with access to the information. We have the doctors with access to the information, and we have all of their staff with access to the information. We have technicians with all of the

information. We have the companies that the technicians work for with access to the information, and we have undisclosed health service administrators now with access to the information. Exactly how long do you expect that information to remain confidential? I think that is something that we have to seriously consider before moving forward with this Bill.

> Access would be as required for the administration of the health care insurance plan and to co-ordinate the delivery of health [care] services between Alberta Health and other health care administrative bodies.

Well, again, we've got layers and layers and layers of people who are going to have access to this information . . . [Ms Carlson's speaking time expired] Well, with that, I'm sorry that I have to conclude my remarks, because I'm not finished.

MR. DEPUTY CHAIRMAN: The hon. Member for Olds-Didsbury.

MR. BRASSARD: Thank you, Mr. Chairman. There have been a number of issues raised tonight. We recognize, of course, going into any legislation that deals with confidentiality that there is a balance and there is to a degree a compromise between what is necessary to know and what is legitimately available to people involved.

A number of the concerns that were raised addressed the minister and the ultimate authority of the minister and her designate as far as her releasing information to an individual. Well, of course, once the minister takes that responsibility on, then that minister is ultimately responsible. I should point out that it's not the researcher that the minister will be releasing information to but rather the information that is required for the research. We talked about breast implants and other things. These are very major, major concerns facing society, Mr. Chairman, and they need to be addressed, and they can't be addressed without this Bill going forward.

The Member for Bow Valley already talked about the checks on pharmaceutical dispensing and the triplicate form that they're checking on so that it will remove duplication and abuse within that system. The Member for Cypress-Medicine Hat already talked about the need for research in many areas. I could repeat much of what has been said here, but I would just be doing exactly that; I'd be repeating. Some of the speakers tonight were all over the map, and I'm going to try and sort all that out so that we are responding specifically to the concerns dealing with the Bill, Mr. Chairman.

Accordingly, I'd like to adjourn debate.

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

MR. BRASSARD: Mr. Chairman, I just adjourned debate.

MR. DEPUTY CHAIRMAN: Oh, sorry. I wasn't listening, hon. Member for Olds-Didsbury.

We have a motion that we adjourn debate on Bill 45. All those in favour, please say aye.

SOME HON. MEMBERS: Aye.

MR. DEPUTY CHAIRMAN: Opposed, if any?

SOME HON. MEMBERS: No.

MR. DEPUTY CHAIRMAN: Carried.

Bill 46
Hospitals Amendment Act, 1994

MR. DEPUTY CHAIRMAN: The hon. Member for Innisfail-Sylvan Lake.

MR. SEVERTSON: Thank you, Mr. Chairman. I'd just like to say a few words about the Hospitals Amendment Act, Bill 46. Generally, the purpose of this legislation would expand the present Bill to recover costs not just of the hospital but of all health care costs, direct and indirect, that occur to the Crown arising from an action of a wrongdoer.

The proposed changes in legislation – I'll go through a few of what the legislation includes: recovery of practitioner service costs and all other health care costs funded by Alberta Health; recovery of future hospital and health care costs incurred after settlement or judgment; regulating structured settlements; imposing requirements to notify the government of a claim and also modifying the existing penalty provisions; also, creating the Crown's claim as an independent claim instead of a claim of segregation of the injured person; and clarifying the right to recover prejudgment interest.

One of the biggest changes to this Bill compared to Bill 22, which was introduced in the fall of '92, is that section 86(b) of the previous Bill was a major concern to the insurance industry. It allowed the government to commence an action many years after an action had occurred. As a result, insurers believed they would have to keep their files open indefinitely and maintain a future reserve to reflect the eventual liability. This has been amended to allow just a six-month period after the beneficiary's time limit has expired.

Another area is centred around the confidentiality of information. This legislation will only permit the information to be used for the purpose of a third party liability program. This program has been obtaining personal information from hospitals for the past 32 years and has established appropriate safeguards respecting the use of this information.

Mr. Chairman, I'll close at that and look forward to the debate from the members opposite.

9:40

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

MR. ZWOZDESKY: Thank you, Mr. Chairman. I'm privileged to kick off the debate from this side of the House on Bill 46 regarding the Hospitals Amendment Act.

A few things that propelled me to my feet here again tonight on this Bill are a continuation of what I started on a little while ago with regard to general access to information or freedom of access to information under Bill 45. I read with interest that portion of the Bill which in fact deals with the release or access to medical records with regard to health care in the case of the wrongdoer. The issue of privacy, as I have stated earlier and in other debates, is of tremendous importance, and I see that's one thing that's addressed here.

I have to ask just exactly how much information the government needs to have at its disposal. At what point is enough enough? I think the issue of privacy here is of paramount importance, and I need to comment on that, because we see that in other areas where information has been allowed to government, it hasn't always remained in the confidential, so to speak, file. So I have to flag again for the government's attention the fact that we don't want to see more government in our face, so to speak; we want

less of that. Yet this Bill seems to go directly against that particular thrust.

What this Bill in fact does is it really increases the number of civil servants, the bureaucracy, shall we say, where information is handled, and we've seen some of that information from time to time. I know it's not the habit of the government to misuse information, but from time to time that has in fact happened, Mr. Chairman, and what we see here is the potential for that to go on again. Under no circumstances should we stand idly by and simply let it happen. When you see the opportunity to help the government and flag for their attention the need to retract, such as is the case here, I think we have to speak quickly and briskly to that point.

I don't want to see the bureaucracy increased, yet I think there will be a need for that to happen, because alongside all the additional changes here to the Bill, we're going to need an increase in reports, reports that have to be written, reports that have to be filed, reports that have to be written on reports perhaps. The reporting requirements for insurance companies alone under this Bill will, I'm sure, skyrocket paperwork right through the ceiling.

I know that currently we have the government having the ability to collect only the costs of hospitalization, and that what they're trying to do here through Bill 46 is to also have the right to initiate legal action against the wrongdoers. I really get concerned about that because we have before us at the moment a discussion through question period and through the media and elsewhere, the big debate on the legal action being brought forward by about five or six wine boutique operators who have challenged the government for the difficulties they are going through that have resulted from the ALCB privatization. What we saw there, Mr. Chairman, was a case where the government attempted to push through something a little too quickly with regard to privatizing of our liquor stores, and the net result of it all has come about now. We see it as a botched attempt at privatization, albeit some of the privatization will work itself out over a period of time.

I recall the great difficulty that arose last fall when the government moved with such haste that it precluded the larger superstores, as they are known, from moving into the liquor sale area. Then the government changed its mind and said, "No, I don't think they will," and then some discussions took place, and now I understand that those stores will be moving in in about five years' time. Meanwhile, we see all of these smaller businesses out there that have a great deal of difficulty making ends meet as it is, but in the case of those five or six wine store operators, the wine boutiques, they are six of 20-some who did not accept the government's movement in this area.

Point of Order
Relevance

MR. BRASSARD: A point of order, Mr. Chairman.

MR. DEPUTY CHAIRMAN: The hon. Member for Olds-Didsbury, a point of order.

MR. BRASSARD: Standing Order 23(b), Mr. Chairman. I don't know that privatization of liquor stores has anything to do with Bill 46. I wish the member would get back on topic.

MR. ZWOZDESKY: Perhaps the member wasn't listening carefully enough. I'll repeat it for him. What I'm talking about here is this Bill, and the member there who sits right beside the member who initiated this should know this. This Bill might give the government the right to initiate legal action. Now, that's exactly the case that we have with five or six wine boutique operators who are attempting to or already have launched legal action against the government, but the government would not like to receive that legal action. I'm trying to speak on behalf of those people that could be affected by this Bill by using the liquor/wine boutiques as an example of how not to go about doing the government's business.

MR. DEPUTY CHAIRMAN: Thank you, hon. member. I understand the hon. Member for Olds-Didsbury's concern. I'm sure that the Member for Edmonton-Avonmore is just using an example, but I think he's used enough examples now. Would you just kindly go on.

MR. ZWOZDESKY: I was coming to the point, and he's taken me off it. I understand his method to his madness. I will go on to the next part, but I would simply conclude by saying that that case in point is one very large example of where the government seems to have protected itself and its right to legal action, but it's not willing to accept the plight of the little guy, the small business owner, and allow him to reciprocate.

Debate Continued

MR. ZWOZDESKY: In any event, what we're talking about here is also the notion of who's at fault in certain cases, such as motor vehicle accidents, or who is negligent in some cases and whether or not it's appropriate for the government to be able to sue them; i.e., the wrongdoers. If in fact it were a more level playing field, you might see some people going along with this, but that's not the intention of this Bill. It seems that what the government again is trying to do here is reserve for itself the right to sue others while it in fact wants to galvanize itself from being sued. There's something incredibly wrong with this. I can't just put one or two words down on paper, Mr. Chairman, to illustrate the point clearly enough for members opposite, but it seems like some sort of I guess double standard, if you will. It's okay for the government to do something, but it's not okay for someone to do something back to the government.

The other part of this Bill that raises my concern is with regard to what the overall costs are going to be to the ordinary Albertan. Consumers of insurance premiums will surely see some sort of a hike in fees. I can't see how under the proposed Bill costs of insurance premiums would not increase. I realize that the government is making an attempt here, a valiant attempt, to save itself some money, perhaps several million dollars from its budget, but any other attempts to save without a firm plan in place have surely backfired on the government, and I sense that the same potential arises here.

9:50

One other issue that caught my attention was in section 2, specifically where this Bill would allow the minister not only access to any medical records as deemed necessary but also to enforce the "Crown's right of recovery." While that serves as a bit of a qualifier – in other words, it attempts to put a fence around the circumstances under which information contained in medical records could be released – it puts everything in the hands and at the discretion of the minister, and I just get worried that from time to time we see ministers abusing that privilege and that right. Here we seem to see an all-encompassing movement under section 2 to again allow the minister the full power, whatever it is that that particular minister might need, to enforce the Crown's

position or the Crown's point of view in whatever lawsuit they might have before them, but there's nothing there to protect the Albertan in return.

On review of the Canadian health insurance system I think there are a number of studies that would point out that the system we have in place at the moment, Mr. Chairman, is an extremely efficient one. It's much better than any of the private systems in the United States, from what I've read. I don't understand, then, why it is that the government keeps wanting to move toward a U.S. style of health care. Is there something here that they're holding back that would corroborate that position or substantiate their moves in that direction? If so, then perhaps during the debate they could bring it forward or perhaps they could simply offer it as a matter of common courtesy. What I see here instead is an attempt to move us toward a system that otherwise I cannot favour. I spoke earlier in the evening about the encounter I had with the U.S. health care system, and while the care is certainly good, it's only good if you can afford it, and that's not the case here. I think that if these statistics bear out and we see Canadians spending approximately 9 percent of GDP on health care, when you parallel that with Americans, who are up around 12 percent of GDP on health care, surely that tells us something. The essence of this Bill seems to bring in or allow for the ushering in of more and more of a U.S. system.

We saw earlier in the budget handed down by the Provincial Treasurer something like 80 or 83 – was it 83? – examples of new taxes or hidden taxes. I know they were called different things: increased premiums and downloading and off-loading and cost recovery and one thing and another. But here, surely, again we see that this also has embodied in it potential – it's stronger than potential – the actuality of increased fees, which I spoke about a little earlier. We see now, for example, how municipalities are trying to balance their budgets. Some of them, Edmonton for example, are having to increase the number of speed traps to try and wrestle with balancing their budgets, because they are driven to those extremes. There is little left for them to do by way of balancing their budgets otherwise.

[Mr. Tannas in the Chair]

Mr. Chairman, there are a few other areas that I would like some clarification on. I respect the fact that the government is making an attempt here to prevent any misgivings and misinformation from creeping out and there are penalties of up to $10,000 for violating aspects of this clause, but I've seen so many things violated in this House that I have trouble buying into even some of the simplest of examples. Nonetheless, what I will do is close off by cautioning the government to give this some more serious reconsideration. With that, I will close my portion of the debate for the time being.

MR. CHAIRMAN: The hon. Member for Innisfail-Sylvan Lake.

MR. SEVERTSON: Thank you, Mr. Chairman. I'd just like to make a few comments to the Member for Edmonton-Avonmore who just spoke on this Bill. I guess the first one: he's worried about the confidentiality of the information. I said in my opening remarks that under the present legislation we have a 32-year track record of keeping and safeguarding the respects of information given out. All we're asking for is the expansion to recover our costs for all health care costs. We need the information so we can recover our costs.

The other concern that the member had was about the right to sue the wrongdoer. He thinks that the taxpayer should pay for it. I don't go along with that philosophy. I believe that if somebody is guilty and is proven wrong, he should pay through his insurance company. What this member is saying is that the taxpayer should pay for the wrongdoer. Why do we have insurance? If we're going to let them off the hook, the government's got to pick up the tab for wrongdoers.

He also talked about something in section 2. Mr. Chairman, as I look at this Bill, the first section starts at section 40 and goes up from there, so I have no idea what he's talking about when he talks about section 2.

Also, he made the comparison that we're moving to a two-tiered system of health care. As I said in second reading, I have no idea how the members opposite can surmise that this Bill is changing our system of delivering health care. In our health care system under this, a person goes to the hospital or a doctor or a physiotherapist and he gets treatments. This is talking about recovering costs from the wrongdoer that the state has paid. It again has nothing to do with the delivery of our health care system.

Mr. Chairman, with that, I'd like to adjourn debate on Bill 46.

MR. CHAIRMAN: The hon. Member for Innisfail-Sylvan Lake has moved that we adjourn debate on Bill 46. All those in favour of this motion, please say aye.

SOME HON. MEMBERS: Aye.

MR. CHAIRMAN: Those opposed, please say no.

SOME HON. MEMBERS: No.

MR. CHAIRMAN: Carried.

Bill 47
Safety Codes Amendment Act, 1994

MR. CHAIRMAN: The committee is reminded that we are now on Bill 47, the Safety Codes Amendment Act, 1994. The hon. Minister of Labour will make his comments.

MR. DAY: Thanks, Mr. Chairman. Just some brief comments. I think one of the main concerns is a misunderstanding in terms of the fact that this is simply an amendment to the Safety Codes Act, and as I listened to the comments from the members opposite on October 24, the concern seemed to be a levying of fees to municipalities or downloading to municipalities. Possibly because this is strictly an amendment and therefore very short – it's about three pages long – members forgot that this is permissive legislation. No municipality has to buy into this plan at all. Some municipalities have indicated that they want to be a part of administering safety codes; others have indicated that they do not want to be. For those who do not want to be, the system will simply continue as it has been or an accredited agency may also take on the task of certain elements of providing certain services related to safety codes. I just wanted to make that clear. The Member for Edmonton-Rutherford and the Member for Edmonton-Meadowlark both had concerns in that area, and it seemed to run through the comments of a number of the members there. I can see why that could be misunderstood because the whole Act isn't there; the amendment is. This is not downloading to municipalities. No municipality has to be a part of this if they do not want to be.

10:00

There was an amendment by the Member for Edmonton-Meadowlark that was given to me for consideration. If members will just check the Bill in front of them, they'll see that this is covered. First of all, the amendment was asking that the minister review any levy of assessments imposed by the council pursuant to subsection 1 every two years. In the Act, which again the member may not have had before her, the actual provision requires for a review every year. So I just want to make that clear. The Member for Edmonton-Meadowlark is asking for a review, which is quite proper, not knowing that it was already addressed in the Act. She had indicated every two years at least. We've got a more stringent one already in the Act. It's every year that that has to be done.

She goes on in her amendment to say that no levy of assessment shall be increased prior to review by the minister. Well, as a matter of fact, nothing, no levy can take place until the minister has actually given full approval for that. So what's already in the Act is in fact more stringent than what the Member for Edmonton-Meadowlark was asking, so I sincerely believe that the concern has been addressed.

I would look to see if there is any comment on that, and I'll proceed from there.

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

MR. WHITE: Thank you, Mr. Chairman. As much as the minister would like to lead the House to believe that it is permissive legislation – which in fact is an American term under American legislation. It leads one to believe that the Americanization of this government is taking place as we speak. Aside from that, yes, this piece of legislation does allow municipalities, agencies, credit agencies, and corporations as collectors and agencies to charge these fees. In fact, many of them should and will, but they only will if the province in fact downloads a lot of these responsibilities to these agencies, which if that hasn't occurred, certainly the cities are expecting that to occur at any moment. This particular minister has no great love for keeping costs within his agency and in fact would disseminate the power to make these judgments, and these judgments being made then in fact track the fees.

Well, if that isn't a clear case of downloading – I mean, if you make it permissible for these people to charge the fees, assuming the authority will come to it, then 42 and 57, the delegation of authority that's coming on the legislative Order Paper here, will in fact make all of these agencies responsible for their own operation. If you can't raise it in taxes – if you don't happen to be a municipality, you have to raise it in another manner – then in fact fees are the only answer, and that's clearly what will occur. The government will take less and less and less responsibility for the inspections, the safety codes, and administering the building codes, all the Acts that have been brought on for years and years and years in this Legislature so that the protection of the public is in fact paramount.

I for one have no difficulty saying to an applicant that wishes a plumbing permit or a drainage permit that they must pay fees in order to effect some kind of change. However, the magnitude of those fees is what concerns one. If it's totally and completely not just for the administration of that particular application but the true costs of administration of the Act and public protection, then we get into a major gray area, and quite frankly it appears to this member that it is a major downloading going on. Otherwise, what would be the intent of a legislation? This government has seen fit to make one simple axiom the be-all and end-all of government. That's to meet and beat the bottom line of the year before to the extent that whatever it costs to get out of the business of governing, then we will do so. If we can push it to any other level of government or to the public directly, then so be it. The last piece of legislation that we just adjourned was exactly that. All of these are directed at that single purpose. I for one do not think it's reasonable that one should expect that kind of thing to happen over and over and over again.

If the minister could give us a better explanation of the reasons for these amendments to all of these Acts, then I would like to hear it. Thus far I have been sitting in my place and listening. I have yet to hear any kind of rationale that would bring one to the conclusion that this is to the betterment of public safety simply by adding fees. There's no restriction on the amount of the fees. There's no restriction on how one could audit those fees. To say, yes, these fees are due and for the cost of one single application: it doesn't say that within the legislation at all. In fact, it's just one more area of this government getting out of the business of being in government, and I for one will not sanction it.

There could be some redeeming characteristics of this piece of legislation that adds levies if, in fact, it did say a number of things about bringing the agencies to heel should they overcharge in some areas, but that does not seem to be the case. If the minister can say unequivocally where the areas are that these will be applied or make some very good examples of where it will occur, then I could buy it. In the meantime, I'm afraid I cannot.

Thank you, Mr. Chairman.

MR. BRUSEKER: Mr. Chairman, just a couple of questions for the minister on this Bill. When the original Safety Codes Bill was put through the House by the Member for Rocky Mountain House, there were a number of questions that I had. Indeed, I have an amendment that I'd like to put forward that deals with one of the questions that I raised at that time. The Safety Codes Act at the time amalgamated nine pieces of legislation, and in his opening comments the Minister of Labour referred to the fact that municipalities can opt in or they don't have to opt in. My concern at the time – and it still deals with the council that we're talking about right now as well – is what happens when a municipality doesn't opt in? Is there some way to replace inspection services, particularly in some of the small towns where you get people doing inspections on a volunteer basis? The concern I raised at the time, and the concern that I think still exists now whether they charge fees or do it for free or whatever is: does the person or persons or does the corporation in the small centre have the educational background, the talent, the skills that are necessary?

This Bill, the original Safety Codes Bill was proclaimed in stages, and my understanding is that the last part of it was finally proclaimed, I guess, just exactly a month ago, October 1, 1994. So we finally just got through. It was a very complex Bill in that it dealt with a number of issues. Perhaps I'm straying a little bit from the Safety Codes Amendment Act, 1994, we have before us today that talks about collection of money and so on, but my question, I guess, to the minister is: are there sufficient numbers of people right across the province that deal with the nine areas that the safety codes legislation dealt with? Building, fire, plumbing, gas, boiler and pressure vessels, electrical, elevators, amusement rides, and ski lifts – passenger ropeways, it's called. Are there enough inspectors across the province to take care of all that?

Again, whether they're going for a fee of some kind on a fee-for-service recovery system is not a big concern of mine under the section that deals with levies. My concern is: are the people who are doing the inspection adequately trained? To that effect, Mr. Chairman, I'd like to offer an amendment to section 21.2. If there's someone who could distribute that. Parliamentary Counsel has in fact seen the amendment. I'll just pause for a second.

10:10

DR. WEST: Question.

MR. CHAIRMAN: Thank you, hon. Minister of Municipal Affairs. The Chair has indicated to the mover of the amendments that we would take a moment so that they are circulated. The Chair would also let you know that we have received the appropriate signed copy. So they are going out.

Calgary-North West, you may proceed.

MR. BRUSEKER: By the way, I'm moving this on behalf of my colleague from Edmonton-Meadowlark, whose signature is on the amendment.

The purpose behind it and the reason I sort of broadened the scope of it a little bit is to ensure, particularly in some of the smaller areas, that the whole issue of investigation and inspection under these nine jurisdictions should be basically on a cost recovery basis, but then, of course, you never know. Sometimes there may be some surplus funds accrued somewhere along the line.

The first part, section 21.2(1), is amended so that it reads very similar to what is in the Bill right now, Mr. Chairman, but it adds in the concept of a cost recovery basis. Then it adds a further subsection, 21.2(1.1), that says indeed that if there's any surplus money under this fee and assessment levy basis, that should be channeled back into education and training for the use of the council.

The reason behind that, Mr. Chairman, is simply this. In some of the smaller jurisdictions, some of the smaller centres around the province, some of the individuals involved in inspections are small business owners and have difficulty in financially being able to afford to shut down their business for a day, take the time to travel to a training centre, wherever it is, and get the training they need. The thrust of this amendment is simply: let's try to ensure that in some of the areas where there's difficulty getting sufficient numbers and sufficient numbers of sufficiently trained personnel, then hopefully this will allow some of that to occur. So that really is the thrust of that particular amendment.

I'm looking forward to some of the comments that I'm sure the minister will make in response to some of the questions we've raised. I will close my comments there. Thank you.

MR. DAY: I think I can safely say, Mr. Chairman, that the intent of the amendments and of the concerns raised by the Member for Edmonton-Mayfield is good. I think there's just some understanding that needs to be filled in.

First of all, the Member for Calgary-North West was here in '91 when the Bill was passed, and that explains why he understands certain parts of it. If he weren't here, this would be a difficult thing to grasp. The member did correctly identify that this has been brought in in stages. All I can do is re-emphasize to the Member for Edmonton-Mayfield that downloading is not a factor here because a municipality does not have to take part. There is no intent to download to a municipality unless they want to take part. I think the Member for Calgary-North West understands that just because that was clearly laid out the first time through.

The concern: does the person or the corporation have the education or skills? Again, the intent there is good, and it's been addressed through the establishment of the technical councils since the period from 1991 until now. Technical councils in each of the nine areas developed at some length and with great pain, actually, since it had representatives from every area. The permitting area, the certifying area, the consumer, the deliverer of the services, the contracting associations, be it the electrical associations or the unions involved, all had significant input into developing very clear lines that have to be met and requirements that have to be met by anybody wanting to do the inspecting. Existing inspectors in the nine areas who already are doing that are grandfathered in. Again, they have to show their tickets, their master electrician or whatever certificate they have in whatever area. Then the guidelines for anybody else wanting to move in that area are very clear and quite stringent.

So there won't be a lack or an insufficiency of people in the rural areas, because in a rural area – let's say a county or a municipal district doesn't want into this, then the service will continue to be delivered. As a matter of fact, though, one of the reasons for the safety council, if I can remind the members, is that there are not enough inspectors right now to actually be doing the service. We're selling permits like crazy, but there aren't enough public servants to be able to deliver that service. So people are buying the permits, and they are not in all cases having the inspection done.

It's just a factor of life. This provides the ability for people in that area who meet the stringent qualifications that have been laid out to in fact then deliver the service. So when you're buying that permit, instead of now remitting the fee to the Department of Labour, it won't come to the Department of Labour anymore. It goes either to the municipality, if they're buying into this, or to the accredited agency. That's why we need the provision here for certain fees to be allotted. Again, the concern about fees being too high or running away: one of the amendments that the Member for Edmonton-Meadowlark wanted asked for a review of those fees every two years. It's every year, so it's tighter than is being required here.

In terms of the amendment before us here, "surplus money collected by the Council shall be returned to the Council for safety training/education," there's been such a significant increase in safety associations by industries over the last three years – and I'll cite the Construction Safety Association alone. That industry has bought in wholesale into the whole area of safety associations within industry with the industry levying to all of its members the fees required for training/education, so much so that not only do we have major industries, major large unionized companies buying in, but the input has been so great that the Alberta Construction Safety Association has actually a mobile unit now, a training unit, that goes even to the small residential sites, which in the past have been able to slip the whole education concern in terms of safety, and deliver programs right on site. We're talking about individual homes being built, subdivisions that normally have never been confronted with the safety aspect.

So if you were to suggest to the contractor that the levy he's now paying for the inspection, that profits of that would go to safety again – he's already been levied by his industry association – people are going to balk at almost like a double taxation because they're already buying in. However, the autonomy there would still exist for the council should they have a surplus and should the

industry or employee groups within industry want that money to be turned in. If there's a surplus, that could happen. This does not bar that from happening. This would say that it would have to go to training and education instead of maybe some other area that the council might feel should be more properly addressed. Also, if there was a surplus, like a growing surplus, then the people buying into that service are going to say: "Wait a minute. I want to pay for a permit. I'm willing to do that by a user fee, but I'm not out to create a huge profit for the agency delivering the service."

So that's what we feel are the mechanisms in place that would cover a lack of trained and educated personnel to be delivering these services in the particular areas. [interjection] A member said: that's good. That's why on this particular amendment it's well founded. I believe it's being addressed.

I would call for the question on the amendment.

MR. CHAIRMAN: The question has been called. Do you wish to speak, hon. Member for Calgary-North West?

MR. BRUSEKER: Yeah. Just one question in response to the hon. Minister of Labour. The issue that the amendment is attempting to address, Mr. Chairman, is exactly the issue that I think the Minister of Labour addressed, and that is that permits are being issued and things are going so quickly that sometimes there's not time for inspections. I guess the question I'd like to ask – and I know this isn't question period – is: have the safety codes amendment and the Safety Codes Act as it's been passed improved the number and quality of inspections now that it's in force than what we had before under all those nine pieces of legislation? If indeed that is happening and we're working towards improving that, then perhaps the amendment may in fact be redundant, but the concern is that there are inspections that should be happening, at least in the past should have been happening, that were slipping through the cracks, and part of the reason they were slipping through the cracks is because adequately trained personnel weren't in place. If indeed the Safety Codes Act originally and now the amendment serve to close that loophole, then that would be something that I think we should be proud of in this province.

10:20

MR. DAY: That's not only the intent and the hope of the legislation; that is in fact what's being accomplished, because where inspections and services were never available before, now either an accredited municipality or an accredited agency can deliver that service. Those people will be there. The limited people that are in the department itself who are experienced in delivering inspection services will be performing the audit role on those agencies now that are out and doing the inspection service to make sure they're meeting the standards.

MR. CHAIRMAN: Okay; are you ready for the question, then, on the amendment to Bill 47 moved by the hon. Member for Calgary-North West on behalf of the hon. Member for Edmonton-Meadowlark dealing with sections 21.2(1) and 21.2(1.1)?

[Motion on amendment lost]

MR. DAY: Mr. Chairman, to the member opposite. As I just indicated, I think the intent there will embrace the intent of that amendment. He did identify that if that's true, it would be redundant, so I think that as he sees it progress, he'll see that this is in fact the case.

I would now call the question on this particular Bill at committee stage.

MR. CHAIRMAN: Okay; are you ready for the question?

[Title and preamble agreed to]

[The sections of Bill 47 agreed to]

MR. DAY: Mr. Chairman, I would move that the Bill be reported when the committee rises and reports.

[Motion carried]

Bill 48
Occupational Health and Safety Amendment Act, 1994

MR. CHAIRMAN: For comments I'll call on the Minister of Labour.

MR. DAY: Thank you, Mr. Chairman. Just by way of reminder, the Bill really is covering four principal areas here, fairly straightforward I think. I know there might be some question on that, but I think these are fairly straightforward. First, it allows a change so that occupational health and safety, if they wanted to contract the services of a physician for certain purposes on an ad hoc basis, can do it. I know it sounds strange, but the existing Act prohibits that because of a reference to the Public Service Act. So that's the first area that's addressed.

Also, the current designation of occupation regulations: the list goes on for pages and pages, trying to list the occupations covered by the Act, and continues to have to be added to or addressed. What will happen is that this Bill will streamline that legislation by incorporating the requirements of the regulation right into the Act. So all occupations other than those that might be specifically exempted will be covered by the Act. It saves having to redo the pages of regulation every time somebody comes up with a new occupation, which happens daily. It clearly takes the regulation, brings it into the Act, and I think members will appreciate that here is a case where it's going in the other direction than the one members opposite have been concerned about: about everything going into regulation. This is saying: whoa, okay; we'll bring the regulation into the Act, clearly showing the exempted industries. That's the second area that's covered.

The third looks at the requirements currently found in the designation of serious injury and accident regulations. Some employers at times have avoided certain reporting mechanisms when it's come to accidents because they try to argue that it hasn't been clear in terms of a reporting mechanism. This will streamline that mechanism, will make it very clear, and will, I think, reduce the times where somebody could try and get away from reporting, because this will be a lot more clear. It will be in the Act regarding serious injuries and accidents.

The fourth area is again clearly defining the obligations and responsibilities of a principal contractor. Again there are times when an accident occurs on the workplace and in fact an employer or contractor may in some cases try to avoid responsibility for that particular accident or injury. This clearly defines principal contractor, shows who's responsible on the worksite, and makes that point.

Again, the Member for Edmonton-Meadowlark had some amendments that I would just like to quickly address. If there are

any other concerns here, I'll listen to those, and then if there are amendments, I will address those.

MR. CHAIRMAN: Okay. The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Chairman. While this Bill attempts to clarify the responsibilities of prime contractors – and we believe that that's correct, and you've made some moves in the right direction in doing so – it does leave some other parts of the Bill looking somewhat remiss. On behalf of my colleague from Edmonton-Meadowlark I would like to propose some amendments to this Bill which will tighten it up.

MR. CHAIRMAN: The Chair would indicate that we've received at the Table the appropriately signed copies of the amendment. While we're waiting for this, do you wish on your colleague's behalf to go through them one at a time or go through them as one piece?

MS CARLSON: I'll discuss them one at a time, and we can vote on them as one; all right?

MR. CHAIRMAN: Yes, all right.

Is that agreeable to the committee? Okay.

You may begin. The members have received . . .

MS CARLSON: Thank you. The first amendment here refers to section 4. It requires striking "shall ensure as far as it is reasonably practicable to do so" and substituting "must comply with the Act and regulations with respect to the work site." It seems to be quite paramount, if we're going to put in these restrictions on prime contractors, that in fact they have to comply with them, so this is just a tightening up of what is in the Act. I think it's a reasonable amendment. It falls in line with what the minister had in mind here.

The second one refers to section 7, and it adds: "within 24 hours of the occurrence of the injury or accident" after "Director of Inspection." If you look at that part of the Bill on page 3, there's no reference to time that the injury has got to be reported, so this again just clarifies that it needs to be done within 24 hours. It just tightens it up a little bit there.

Point 3. In section 7 adding the following after section 13(1.1): "(1.2) A Director of Inspection shall begin an investigation within 48 hours of being notified of the injury or accident." Again merely a tightening up of the procedures. To begin an investigation within 48 hours only seems to be reasonable to give some prompt attention to the situation that has occurred there. Again we think it just adds to what the minister had in terms of intent here.

Point 4. In section 7 striking out section 13(1.1)(b) and substituting the following: "(b) an injury or accident that results in bodily injury to a worker, whether or not the worker is admitted to hospital as a result." Currently what it says here is, "an injury or accident that results in a worker's being admitted to a hospital for more than 2 days." Well, given the current changes that we're seeing in our health care system, it seems that the only thing that's going to be requiring a two-day stay in the near future is a death, so we would like to put this in just so that there can be some attention paid to serious injuries regardless of whether or not the person was in fact admitted to the hospital.

10:30

Point 5. In section 7 adding "cherry-picker, log-loader or boom truck" after "derrick" in clause 13(1.1)(d). What it currently says is, "the collapse or upset of a crane, derrick or hoist." Really we believe that to meet the requirements of the kind of industry we see in this province, those few additions will encompass more of the kind of industry that this Bill addresses. So we believe they again follow with the intent of this Bill.

Point 6. In section 7 striking "or" after "or hoist" in clause 13(1.1)(d) and adding the following after clause 13(1.1)(e): "(f) the collapse or failure of scaffolding." Again, that falls in line with what's here. It just expands somewhat in order to encompass the kind of industry that we do see here and the kind of injuries that happen in and around prime contractors.

Point 7. In section 7, (a) striking out "serious" in section (1.2) in (2.1), and (b) striking out "serious" wherever it occurs in section 13 of the Act. If you go to section 7 on page 3, it states in several instances, "serious injury . . . or accident that has the potential . . ." So what we want to do here is make sure that we don't get into a definition of terms with these prime contractors over what constitutes a serious injury and what does not, that if they're injured on the worksite and they require some sort of medical care, it should be attended to by this Bill.

So with that, Mr. Chairman, I ask that the minister give serious interest to this amendment that has been brought forward by my colleague. They are brought forward in the intent of just making this Bill a little better and a little tighter than it is already. We would ask all members on both sides of the House to support it.

MR. DAY: Just for clarification. Did the member opposite indicate that they would like this all to be voted on as one, all seven?

MS CARLSON: Yes.

MR. DAY: The Member for Edmonton-Meadowlark did indicate to me the areas that she felt were worth looking at in terms of amending. She also indicated, as the Member for Edmonton-Ellerslie has, that there are some moves in the right direction in this Act. So I appreciate that small acknowledgment of some direction. Because there was time spent by Edmonton-Meadowlark looking at this and getting to me their concerns, I want to assure the members – they may not agree with my analysis of these – I've given some serious thought and research to see if in fact these areas are covered. So I'll refer quickly, if I can, but reflecting the time that's been put in here on each one.

On your first item. Right now – and this is without getting into all the details of law – this general statutory obligation does send a message to the courts that there is a standard of care within OHS legislation, and it is a strict obligation. The law has already established that an offence, as indicated in the amendment here, under OHS legislation is a strict liability offence. So the specific conditions at any one worksite have to be taken into consideration by an officer of the Court when determining whether these obligations or responsibilities have been met. That in fact is anticipated, not just anticipated but accounted for in the Act. There is a strict obligation there.

Where these have been assigned, there's an expectation on both the law and the administrators of the law that there would be a reasonable and practical means to achieve compliance. That is built in there, but for instance it wouldn't be reasonable or practical, as you look at the actual Bill, to expect any person to undertake precautions or put things in place for matters that they may not reasonably be expected to anticipate. So it's a fine point of law, but what we're addressing here is: there is a strict obligation.

In asking the question and doing the research, this is the same type of OHS legislation across Canada to ensure reasonable and

practical compliance. That is the intent. There may be disagreement with the member opposite, but the intent there, that is the reason for this. It's already established.

As far as the second item, adding "within 24 hours of the occurrence of the injury." The current provision reads, "forthwith notify." The new provision of course reads, "as soon as possible." "Forthwith notify" was knocked out from the point of view of: let's just get to plain English. The expectation here is that the notification will take place as soon as possible. If we move to a requirement of 24 hours, I think you could have situations where the notification, which should happen immediately – and I think it would be few but some less diligent employers would hold off and wait the 24 hours. This says, "as soon as possible." I believe it's a tighter rein than "within 24 hours." We see it even in the House here when we want to rise on a particular point of concern. The reading says, "as soon as possible" after it's happened rather than, let's say, 24 hours. That means there's got to be some immediacy to it. We're putting in that same precedent in law. This is virtually saying immediately. We don't want to give the opportunity for 24 hours which could hamper an investigation. Evidence could be lost. It has to be done as soon as possible.

The third item talks about, "A Director of Inspection shall begin an investigation within 48 hours of being notified." It's a matter of policy now. For instance on fatalities, all industry worksite fatalities are responded to. All of those. But the requirement to respond to any incident, that the director of inspection shall require an investigation with 48 hours of any injury or incident – I mean, I appreciate the intent – would be absolutely untenable and virtually impossible. There are some reporting requirements that are already legislated in two other Acts that I'll point to in a minute that show that this one, though the intent is here, is already covered off.

The fourth item talks about "an injury or accident that results in bodily injury to a worker, whether or not the worker is admitted to hospital as a result." Again, here it's just a matter of redundancy. It's not saying that that's not a good concern, but there would be duplication of information, because right now it's required that there be a recording under the first aid regulation and under the requirements under the WCB Act. That's already required in duplicate now. This would in fact make it a matter of triplication. So the concern is recognized, but I wanted to bring it to the attention of the member opposite. She may not have been aware that the first aid regulation and the WCB Act, Workers' Compensation Act, require that now. So it's just strictly for the point of view of redundancy that that wouldn't be in there.

In terms of adding "cherry-picker, log-loader or broom truck," this particular Act simply is not anticipating expanding into those reporting areas at this time. That's why they're not listed. When that comes or if reason should be shown to do that, then, yes, that would be the time to add it. The areas that are being added now are areas where we have not seen the industry being particularly aggressive in terms of education and training and those areas. There's some caution there, so we're saying: these ones. Those other areas mentioned, there's no anticipation at this time for OHS even moving into that, but should that happen, I'll make a commitment that that particular amendment would be brought in, because then it would have viability and reasons to do.

As far as "the collapse or failure of scaffolding," again I'm not sure if the member is aware that under Advanced Education and Career Development there is an increase in instruction and even possible occupational designation in the whole area of scaffolding. That area is being addressed quite aggressively. That's the only reason it's not being addressed here in the OHS Act. Similar to the previous item, where industry is seen to be particularly aggressive, we don't want to bring out excessive or redundant legislation. In fact, I'll say, as in those other areas, cherry picker and the boom loading, if those look like they're not going to be aggressively addressed, we will be back, and we would want to pull in those areas addressed by the member opposite and give credit to the member opposite for bringing them forward, should we move in that area.

10:40

The last one, striking out the word "serious." Again, this reflects back to the other two areas of legislation that already require reporting. So the intent is good, but I'd just ask the member opposite to speculate for a minute on that reference meaning any kind of injury. It would be unreasonable to expect the added reporting on every single even minor injury. Those have to be reported now under the first aid regulation and under the Workers' Compensation Act. That's why it would be seen as redundant. The intent is good. It is covered off. I realize all members might not be aware of that. That's why it's addressed as such.

Again we've done some study on this, researched these out to see if in fact they would improve it. The intent is good. I commend the members opposite for good intention on the amendments. I honestly believe it's being covered off. That's why we won't move it at this time, but should we move in those other areas, as I've indicated, we would want to incorporate those.

Based on that, I would call the question on the amendments.

MR. CHAIRMAN: Are you ready for the question on the amendment? We're considering, then, the amendment to Bill 48 known as A1 moved by the hon. Member for Edmonton-Ellerslie on behalf of Edmonton-Meadowlark.

MR. DAY: Excuse me. Just for clarification I believe the member opposite said that they would address all seven as a package.

MR. CHAIRMAN: Yes. Okay. Thank you, Government House Leader. I neglected to mention that we are considering all of the seven clauses of A1, the amendment to Bill 48 as proposed by Edmonton-Ellerslie on behalf of Edmonton-Meadowlark.

[Motion on amendment lost]

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

MS CARLSON: Thank you, Mr. Chairman. On behalf of my colleague for Edmonton-Meadowlark I would like to propose an additional amendment to Bill 48.

MR. CHAIRMAN: Hon. member, we need the one that's signed by the Parliamentary Counsel.

MS CARLSON: I don't have one signed; sorry. Can I sign it on her behalf?

MR. CHAIRMAN: No, no. It's signed by the member that you're moving it on behalf of, which is normal. It's just that Parliamentary Counsel has not. Normally there is a signature.

MS CARLSON: Here's Frank.

MR. CHAIRMAN: The very signature is coming. We'll ask the pages to distribute them, and as soon as that's commenced, then we'll let you go.

MS CARLSON: Right.

MR. CHAIRMAN: Hon. member, we have a bit of a problem here in that part of the amendment begins to open up the Act and is not part of the Bill that is before us. You are amending the original Act as opposed to amending the Bill that's before us. That's a separate activity.

MS CARLSON: Would you explain that further to me, because as I see it here, we're just looking at two small changes. [interjections]

MR. CHAIRMAN: Order. Hon. members, with your indulgence we are trying to determine the legitimacy – maybe that's not the right word – but anyway the acceptability of the amendment that is about to be considered, and there was some difficulty in hearing the hon. member's explanation.

I'm sorry. I didn't . . .

MS CARLSON: Okay. Well, if we take a look on page 5 of the Act under section 11, 25(1) and 25(2), there are just two small changes that are being requested here.

MR. CHAIRMAN: The Table would view that as opening up the original Bill, not the Bill that's before the House. The second part, (3): you've got 25(2). It's not in this Bill here. If you wish to strike that out or we wish to ignore it, then we could presumably proceed with section 25(1), which is in the Bill.

MS CARLSON: Well, I think the problem could be that it may be a misprint here on the amendment where it says: "In section 12 . . ." If you look in section 11, it's addressed there. Does that help?

MR. CHAIRMAN: What you're trying to do is work with worksite committee, which is not within the scope of the present Bill. The delay at this time is because it is not signed by Parliamentary Counsel. We're not trying to be argumentive, but that's why they are normally signed by the proposer, which you have, but also signed by Parliamentary Counsel. The fact that they're not signed by Parliamentary Counsel means that we have to check into that. Sometimes what happens is that the copy is still on the desk of the mover or whatever, but this is not the case, and Parliamentary Counsel is drawing to your attention and to mine that 25(2) is not part of this Bill.

MS CARLSON: So can we just withdraw that part of it and then carry on with the remainder of it, or do we have to withdraw the entire amendment? We'll take your recommendation on this. If you want us to withdraw it, then we'll withdraw it.

10:50

MR. CHAIRMAN: Let's try it this way, Edmonton-Ellerslie. If you move the part under section 11(1) and (2) as your motion and leave out (3), then we can have Parliamentary Counsel sign that. Is that acceptable?

MS CARLSON: Yes, that's satisfactory.

MR. CHAIRMAN: Good. Okay.

For hon. members, then, we're going to get a motion to the effect that the part that's (3) here is dropped, and we're only on the part (2), section 25(1).

All right. Would you now put that into being please, Edmonton-Ellerslie, and we'll continue.

MS CARLSON: Thank you very much for your co-operation.

In section 11 renumbering the section as section 25(1) and adding the following section. Section 25(1) is amended by striking "The Minister may by order require that there" and substituting "There shall." So the intent here is just to tighten this up a little bit and have the minister actually do it, rather than giving some option to the minister in this regard.

So with that I would ask that the minister review this and endorse this one small change.

Thank you.

MR. DAY: Well, Mr. Chairman, we're happy to accommodate the dropping of part (3) there. That is a whole and separate discussion that is worthy of some debate, and maybe some time later they can bring that forward under another Act.

By striking out "the Minister may" and substituting "there shall," it goes back to what I was saying about the other amendments, where you are removing the discretion and "requiring" every single time. By doing that, you create a workload that would simply be insurmountable. There are so many incidents on a worksite where both parties, employer and employee, can make quick agreement to. There's nothing secretive or conspiracy related here. But to say "there shall," meaning in every single case, would just require redundancy and mechanisms to be kicked in in literally hundreds, maybe thousands of cases that just wouldn't have to be. That's why it presently says, "the Minister may." Virtually any time that's happened, certainly in my area of responsibility, when you have a legitimate request coming forward, then the minister does in fact order that. But to say "shall" in every case – I know it sounds small. The wording is small, but the requirement would be absolutely gigantic.

So as we continue to amend these in the future, if there's a clearer way of looking at that, I'd be happy to, but this particular way it would be burdensome far beyond the genuine concern for workers' safety. That's why I will vote against it, though I appreciate the intent there.

SOME HON. MEMBERS: Agreed.

MR. CHAIRMAN: Okay; the question has been called on amendment A2, as moved by Edmonton-Ellerslie on behalf of Edmonton-Meadowlark.

[Motion on amendment lost]

MR. DAY: Mr. Chairman, again I appreciate the good intent of the suggestions and will remain sensitive to those types of direction. Given that, I would move at this time that we call the question in committee on Bill 48.

[Title and preamble agreed to]

[The sections of Bill 48 agreed to]

MR. DAY: Mr. Chairman, I move that Bill 48 be reported when the committee rises and reports.

[Motion carried]

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

[Motion carried]

[Mr. Clegg in the Chair]

MR. SOHAL: Mr. Speaker, the Committee of the Whole has had under consideration certain Bills and reports the following: Bills 44, 47, and 48. The committee also reports progress on the following: Bills 45 and 46. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

MR. ACTING SPEAKER: Thank you, hon. member. All in favour of the report?

HON. MEMBERS: Aye.

MR. ACTING SPEAKER: Opposed, if any? Carried.

[At 10:58 p.m. the Assembly adjourned to Wednesday at 1:30 p.m.]