

Legislative Assembly of Alberta

Title: **Wednesday, April 12, 1995**

8:00 p.m.

Date: 95/04/12

[The Speaker in the Chair]

THE SPEAKER: Please be seated.

head: **Government Bills and Orders**

head: **Second Reading**

Bill 19

Freedom of Information and Protection of Privacy Amendment Act, 1995

THE SPEAKER: The hon. Minister of Public Works, Supply and Services.

MR. FISCHER: Thank you, Mr. Speaker. I am very pleased today to move second reading of Bill 19, Freedom of Information and Protection of Privacy Amendment Act, 1995.

This is going to make a big difference to how governments work in the future, and it's a pleasure to bring it in. I think it's going to be a Bill that makes everybody more accountable in this province, and certainly we can use that.

In March of last year our hon. Premier introduced Bill 18, the Freedom of Information and Protection of Privacy Act, to this Assembly. At that time he did state that his personal commitment and the commitment of this government to give Albertans formal legislation would ensure two things: the people's right to access government information and the people's right to have the personal information about them held by the government protected. Privacy is protected and must be protected by controlling the collection, use, and disclosure of personal information. I would like to repeat that, Mr. Speaker: privacy is protected by controlling the collection and use and disclosure of personal information.

The purpose of this Bill is very straightforward. It's intended to make the administration of the Act more effective and more efficient. Since last year Public Works, Supply and Services has been working hard with government departments, boards, and agencies to put in place an administrative framework that will ensure that access to information requests to those organizations are addressed quickly and thoroughly. In discussions between my department and other government bodies it has become evident that a number of housekeeping amendments as well as some substantive revisions are required. These will facilitate the Act's implementation and better define both the scope of the Act and the government's responsibility.

The amendments that I'm about to outline to the Assembly serve to clarify the Freedom of Information and Protection of Privacy Act. They also help keep the associated administrative costs in line through maximizing the use of existing government resources.

Mr. Speaker, I'd first like to take a moment to briefly outline some of those costs that the government expects to be associated with the implementation of the Act in the '95-96 fiscal year. The budget for the Information and Privacy Commissioner's office has been established at \$450,000. This is the start-up year of our commission, and possibly it could grow from there a little bit, depending on the number of requests.

Information management and privacy protection of Public Works, Supply and Services is responsible for co-ordinating the Act's implementation governmentwide. Their '95-96 budget for freedom of information and privacy protection is \$950,000 and

includes eight full-time employees. I just want to make a comment that as the department grows as more requests come in, I think you will see the costs of managing these records and managing this department are going to increase. Although we do not have time at this time, estimates from all government departments on freedom of information are not in, and they'll be working on and compiling more of those estimates. I have to say that we are going to be looking at each department having some staff involved in the management of records, and that doesn't come cheaply.

Mr. Speaker, what these estimated costs do not do is take into consideration the costs related to the following: time to train all government employees, upgrading our records management systems, redesigning the forms used by departments to collect personal information, time required by employees to locate, sever, and copy records in meeting an access request under the Act as well as related duties carried out by some employees on a part-time basis in addition to their full-time duties. So as you can see, it is going to take a lot of work from part-time employees and from the employees within the department to make this work.

The first amendment I would like to present relates to the Information and Privacy Commissioner. The Select Special Information and Privacy Commissioner Search Committee has recommended that the Alberta Ethics Commissioner be hired to assume the duties of the Information and Privacy Commissioner concurrently with his present duties. Amendments to those sections of the Freedom of Information and Protection of Privacy Act that relate to the office of the commissioner together with the consequential amendments to the sections of Conflicts of Interest Act will make it possible for this Assembly to endorse such a recommendation.

In doing so, this government is demonstrating its commitment to streamlining and reducing costs of government during these challenging times. Amalgamating the two offices is designed to reduce those costs associated with the Act. By selecting the same official to oversee both offices, we are maximizing our use of the resources and talent that exist within the structure we have now.

The amendments proposed to Bill 19 ensure that the integrity of the office of Information and Privacy Commissioner is not in any way jeopardized. Changes specify that the person who holds the office cannot review his or her decisions on access or privacy. That is, when concerned records held in any other office of the Legislature of which the Information and Privacy Commissioner may be the head, the committee's recommendation in the search endorsed that it would be the Ethics Commissioner.

The Act concurrently outlines the process; that is, an independent third party to review the Information and Privacy Commissioner's own access and privacy decisions. That third-party review process in this Bill would be extended to include any other officer of the Legislature if the same person acting as the Information and Privacy Commissioner also holds that other office.

Changes to section 4 would strengthen the privacy provisions by excluding from the Act personal financial information voluntarily submitted to the Ethics Commissioner by senior officials as well as any ethics-related advice the Ethics Commissioner would offer to those people.

It was unanimously agreed by the all-party panel established last year to make recommendations about the Act to the Assembly that both the offices of the Speaker and the MLAs be excluded from the Act. In keeping with this recommendation, changes to section 4 of the Act are required to also exclude those records

created by or for the office of the Speaker of the . . . Assembly or the office of a Member of the Legislative Assembly that is in the custody or control of the Legislative Assembly Office.

These would include such things as MLA telephone records to protect the privacy of constituents who phone their MLAs. The total expenditure of the telephone calls is already recorded in a variety of other documents and available to the public.

8:10

Section 4 also is further amended to exclude records between members of Executive Council, MLAs, or MLAs who are chairs of provincial agencies. This change ensures consistency regarding the exclusion of MLA offices and the protection of the privacy of personal and constituency records of members of Executive Council.

An additional change to section 4 is included at the request of Treasury to exclude records of a credit union client that are in the custody or control of the Credit Union Deposit Guarantee Corporation other than records that relate to non arm's-length transactions. This is similar to our treatment of the Treasury Branches and is intended to protect the privacy of people whose personal information may be in the custody or control of the credit unions. At the same time, it ensures that credit unions are not at a disadvantage in the banking industry.

The amendment to section 14 relates to the transferring of access requests if the request is sent to the wrong department. The changes ensure that the system is fair by allotting the department ultimately responsible for the request the full 30 days afforded under the Act to respond to the request. Otherwise, the department is faced with a shorter time to respond because the applicant originally sent the request to the wrong department. This change better captures the original intent behind this section and reflects the legislation passed in other jurisdictions.

Section 19 of the Act now makes it mandatory for the authorities to disclose the reasons not to prosecute following a police investigation. An amendment to the Act makes this a discretionary decision. This amendment is important in assisting law enforcement efforts. First of all, it may be inappropriate to disclose the reasons not to prosecute when other persons are under investigation but have not been charged. In cases where there are several people charged, the prosecution may well continue against some of them even if there has been a decision made not to prosecute one or more of them. As in the case with the balance of the Act, these decisions may come before the Information and Privacy Commissioner for a review.

Changes to section 38 will give the government the authority to disclose personal information to private collection firms hired by the government to recover outstanding debts. The amendment limits the disclosure to only that information which is reasonably required for the collection of debt.

The Act now prevents the release of any personal information to the family of a deceased individual other than the fact that the relative has died. The cause of death or other information is not released. In recent discussions, we've had a few departments express their concern about the limitation this places on their ability to serve the needs of their clients' families. The Department of Family and Social Services, for instance, is often approached by the family members of deceased residents of the Michener Centre for information about the deceased. An amendment to section 38 now affords the government the authority to use discretion in releasing personal information about a deceased individual to a relative; that is, Mr. Speaker, the request to disclose could be considered if it would not be an unreasonable invasion.

Section 62 goes a step further. It permits an appeal by the family to the commissioner if they are unsatisfied with the public body's decision about the disclosure.

Aside from some minor housekeeping amendments I alluded to earlier, the final amendments are to sections 26, 6, and 62. Changes to these sections preserve the long-standing traditional parliamentary powers of the Speaker. This Bill will allow the Speaker's continued authority over the items of parliamentary privilege. Mr. Speaker, I know that you're very interested in this portion. This means that the Information and Privacy Commissioner cannot rule on requests for records of the Legislative Assembly that have not been disclosed for reasons of parliamentary privilege.

These special requirements of the Speaker's office were necessary because unlike every other jurisdiction in Canada except Quebec, the Legislative Assembly Office is included in our Act. This inclusion was supported by the all-party panel. The minor amendments listed in this Bill are for the most part consequential to other changes to ensure consistency or have been introduced to better clarify or define sections of the Act.

Those are the changes that make this a better and stronger and more realistic Act, and it will make all our public bodies more accountable. Our government is committed to the freedom of information and the protection of privacy, and I encourage all of the members to support this Bill.

Thank you.

THE SPEAKER: The hon. Member for Edmonton-Glenora.

MR. SAPERS: Thank you, Mr. Speaker. It's certainly a privilege to be able to speak again in the Assembly about freedom of information and privacy issues. Certainly the Premier, after the June election in 1993, made a commitment to freedom of information, and I think all Albertans were very hopeful that the Premier was serious. Of course, in his own words, that was then and this is now. Now what we see is a further erosion of what was a good start: the Bill that came about as a result of the all-party panel on freedom of information and a number of technical amendments that unfortunately for the most part are not in keeping with the unanimous recommendation of that panel.

Mr. Speaker, I'd also like to note that it's unfortunate that this debate on Bill 19 was delayed until tonight, because I know my colleague from Calgary-Buffalo was quite looking forward to the debate last night, which was, I understand, a commitment that was made. Unfortunately that wasn't able to come about. He'll be looking forward to an opportunity to speak to the Bill both at this stage and at subsequent stages.

Mr. Speaker, the hallmarks of any good government of course are openness, fairness, and honesty, and the flip side of that is secrecy, dishonesty, and arbitrariness. Unfortunately, if you hold up this Bill, Bill 19, to that filter and you check to see whether or not the government will be more open or less open, whether or not we see more honesty or dishonesty in the intent of the amendments and whether or not we see more fairness or more arbitrary action, for the most part this Bill fails.

Now, this Bill is not without merit. There are some amendments which are here to correct defects in the legislation, and those amendments we'll get to in due course. They'll be identified as such, and I would encourage all members to support them. But there are two other kinds of amendments in Bill 19 as well. There are amendments proposed which are really nothing more and nothing less than amendments necessary to accommodate the

government's agenda, which has always apparently been to diminish the role of the Privacy and Ethics Commissioner to that of a part-time position. There are also of course amendments, as we will see, which are designed to restrict access to information, not to enhance it in any way whatsoever.

8:20

So, Mr. Speaker, this is a problematic Bill, as so many of the amending Bills are that are proposed by the government, in that it's a bit of a mixed bag. There's some good, some bad, and some ugly in this Bill. It's obviously the role of the Legislature now in the process of debate to separate those.

First let's look at the amendments in Bill 19 which are designed to allow for the role of the Information and Privacy Commissioner to be held on a part-time basis. Bill 19 will amend the necessary sections of the freedom of information Act and the Conflicts of Interest Act to allow for the current Ethics Commissioner, Mr. Bob Clark, to hold both jobs simultaneously.

I want to be very clear, Mr. Speaker, that none of the comments that I make about these amendments should in any way reflect upon the fine work and the challenging work that Mr. Clark currently does on behalf of the citizens of the province, and in no way should my comments be taken to reflect on the integrity of Mr. Clark or his previous work and current work as Ethics Commissioner, but that being said, it cannot go without being noted that the role of Ethics Commissioner in most jurisdictions is perceived to be more than a full-time job. Certainly when the Premier's all-party panel discussed the very point of whether or not the role of Ethics Commissioner could be merged, they rejected that notion. In fact, they considered the concept of rejecting the new commissioner's office with all of the other legislative officers, whether it be the Ombudsman or the Auditor General or the Ethics Commissioner. The unanimous opinion of that committee was that it would be inappropriate to do so.

Mr. Speaker, we see sections 13, 14, 15, 17, and 19 of the Bill, and we're going to, I think, characterize those amendments as the Clark amendments since they appear to have no other purpose than allowing Mr. Clark to split his time between the position of Ethics Commissioner and Information Commissioner. These sections 13, 14, 15, 17, and 19 will amend the Conflicts of Interest Act in section 31(2) and sections 62, 71, 73, and 92 of the current freedom of information Act. I suggest that these amendments should be rejected.

Now, it should be noted, Mr. Speaker, that when government members on the select special freedom of information and protection of privacy commissioner selection committee spoke to their motion and in fact rammed through their motion, which was to ratify the appointment of Mr. Clark to this position, it was asserted that there were only a couple of minor amendments that would be required to make Mr. Clark suitable to hold both positions at the same time. That is simply not the case. In fact, it will require six separate and significant amendments to allow Mr. Clark to hold both of these jobs.

It is bad policy to build a job around any particular individual, regardless of the credentials of that individual. That is bad public policy. Instead, we ought to define the job and then search publicly and openly for the best possible candidate to fill that job. So, Mr. Speaker, section 19(1), section 19(3), section 13(b) are all sections, along with the others that I've mentioned, which are very problematic in relation to making the role of the Information and Privacy Commissioner that of a part-time job.

There are some other amendments which caused me considerable concern, for example section 7. The current freedom of

information Act provides that within 30 days the head of a department must respond to a request for information. That can be found in section 10. Now, if the request needs to be rerouted to a different department, that departmental head must also transfer within 15 days of receipt. That's in section 14. There are provisions to extend the initial 30-day period when and where appropriate – that's in section 13 – but they're narrow. It's relatively well defined.

So the current Bill contemplates that an information request would be dealt with within the 30-day period except when there are exceptional circumstances, and it does contemplate of course that a department head could transfer. The amendment would double the time limit in which a request must be transferred to a more appropriate department, from 15 days to 30 days. The cumulative effect of this could be a 60-day delay.

Mr. Speaker, I can see no justification for this whatsoever. The minister just described the effort and the dollars and the resources being put into information management systems, into personnel, into training, into cataloguing. If, in fact, all of that is to happen, and if this government is to be run efficiently, then it seems to me unreasonable to expect that an applicant would have to wait an additional 15-day period simply to allow a department head to make the decision to transfer the request, to pass it along to somebody else.

MR. COLLINGWOOD: Ooh, now, that's efficient.

MR. SAPERS: Well, not in any definition of efficiency I've ever seen, hon. member, but certainly it seems to be efficient in the minister's world, not in mine.

Section 8 is another problematic amendment. The current freedom of information Act provides that the Minister of Justice "must not refuse to" advise the family of a crime victim and in some cases the public of the reasons why he has decided not to prosecute. Now, the Klein government wishes to change this positive requirement to a discretionary "may." So the government wants to change this to a point of discretion.

We've already got all kinds of discretion built into that criminal justice process. We've already got all kinds of discretion, as we've seen with some of the gun-related crimes, to prosecute or not to prosecute, to proceed or not, to plea bargain away in many cases. Now the government wants to enter into another discretionary decision, and that's simply to inform the public where there's a public interest in that decision to prosecute or not. I cannot imagine that the Minister of Justice would be satisfied with this amendment, and I can't for the life of me imagine why the minister responsible would want to see this amendment. Victims of crime, particularly victims of violent crime, will be deeply offended by this provision, and I think rightfully so.

Mr. Speaker, the right of the government to disclose personal information is extended in section 12 to "personal information . . . for the purpose of collecting a fine or debt owing" to an assignee of either the government or the public body. I can only imagine – and I would certainly like some detailed clarification on this point from the minister responsible – that this is intended to cover these delegated organizations, these DROs. Now, if that's the case, then I'd like the government to explain, seeing that Bill 57 has been pulled, presumably never to see the light of day again. I'd like to know exactly why this amendment as proposed in section 12 is still part of this amending Bill. We've had no details on this from the government.

Section 5 of the Bill amends the current section 4 of the freedom of information Act. This is the section that enumerates a long list of documents or records to which the Act does not

apply. There was already a provision to protect the records of the Ethics Commissioner and other legislative offices as well. Now, the question I have for the minister is: why does his government want to extend this protection? Why do we need this detailed exception? Why does it specifically reference "deputy ministers and other senior officers"? Why does it attempt to cover advice not given under the Conflicts of Interest Act? What is the government trying to hide with this recommendation?

Mr. Speaker, it seems that there can be no reasonable excuse for this. It's not present in other jurisdictions. It was not a recommendation of the all-party committee, and in fact when I traveled around the province as a member of that all-party committee – and we met with Albertans in Fort McMurray and in Lethbridge and in Peace River and in Edmonton and in Calgary and in other locations – not one, not one Albertan said that they wanted more exclusions for senior officials. Is this another area where this government is going to create a shell and then put into behind-closed-door regulations what they really mean? Is this another attempt of this government to hide behind order in council and simply create regulations that fit their own political agenda, while on the one hand trying to pretend to the public that they're being open, that they're being responsive to that call for more information but then actually hide more information by passing these order in council resolutions? It is not appropriate, and if that is the case, if that's the intent of the government to do that, then I would challenge the government to refer the regulations attendant on this Bill to the Standing Committee on Law and Regulations. Let's have it open. Let's have it in the public domain. I can think of no better place to debate regulations attendant on a freedom of information Bill. To do anything less would do a disservice to the Premier's stated commitment to openness and to freedom of information.

8:30

Mr. Speaker, section 5(a)(iii) of the Act also creates some problems. The current section 4 lists documents not subject to the freedom of information Act and refers to certain registries, but this would expand the list to include the registrar of corporations and the registrar of companies and amends the registrar of motor vehicles division to the registrar of motor vehicle services. I'd like some explanation on that. I'd like to know why the name changes. I'd like to know again why the expansion of the list of exclusions. These amendments seem, as I said, designed to restrict access, and that's not what Albertans want. If we see many more amendments like this, we're going to have to call this Bill the denial of information Act and privacy Bill. If the government was being a little more forthright, maybe that's an amendment they would have made, so as to change the name, as the hon. Member for Fort McMurray has suggested.

Now, as I go through the list, Mr. Speaker, there is an amendment that I would like to enthusiastically support. Section 4 is an amendment that I think is very supportable. This is in fact an amendment that mirrors an amendment that the Liberal caucus brought to the floor of the Assembly during the original debate on FOI. I can remember the hon. Member for Rocky Mountain House, I believe, saying that there was no reason for this amendment, that it didn't make any sense, that we didn't need it. Now, of course we see an identical amendment brought forward by the government. It's good to see that they saw the light. I would suggest that this amendment as well as a couple of others – section 11 I think is supportable. Sections 2(1)(a), 2(1)(b), and 2(1)(c) I think are perhaps all supportable. There are a couple of others that really are either housekeeping or just to correct some

deficiencies, but given that there may be a few of those recommendations that we can accept and we should encourage all members to accept, there are a couple of others which are very, very troubling.

Section 5(a)(iv). This amendment raises a couple of very, very serious concerns, concerns that I don't think were adequately remarked on by the minister in his opening remarks, and I hope that during debate he or another member of the government will . . .

MR. DAY: Point of order, Mr. Speaker.

THE SPEAKER: The hon. Government House Leader rising on a point of order.

Point of Order Second Reading Debate

MR. DAY: Mr. Speaker, in reference to the member's remarks about the minister not adequately addressing certain specific clauses, if he will turn to the section in *Beauchesne* which deals with the whole process of Bills and what happens at second reading and at committee stage, et cetera, he will see – it's quite clear – that at second reading we deal with the principles of the Bill and at the committee stage we get into the specifics. There's no inadequacy of comment there. There have been quite a number of references now that the member has made to very specific clauses, which is fine. We're looking forward to that, but it is at the committee stage that that takes place, I would suggest.

THE SPEAKER: Hon. member.

MR. SAPERS: Thank you, Mr. Speaker. It's absolutely wonderful that the hon. Government House Leader was listening to me tonight, and I appreciate that. You know, he's absolutely right, that I am getting into specifics, because it's the specifics of this Bill which I find so intriguing. Of course, it was the minister who stood and read his text about the specific amendments, so I was really just reflecting on the opening. I certainly respect the minister's desire to get those points on the record, and I would hope that he would respect this as well.

Now, I won't talk about the specific amendments. I'll just say that there are some amendments which offend deeply the whole notion of democracy and public participation. Those amendments, I guess, will be disclosed in due course, because I wouldn't want this debate to be jammed up with points of order.

Debate Continued

MR. SAPERS: Mr. Speaker, there is an attempt to change access to records to do with parliamentary freedom and parliamentary officers. For example, the government has a habit of creating certain positions for certain members of the backbench on the government side: committee appointments, chairmanships. These individuals get appointed to these committee chairmanships. We've even seen them from time to time rise in the Assembly during question period and answer questions on behalf of the government when ministers have been unable to answer questions, and I think the chairman of the special waste management treatment board comes to mind immediately. You know, it's wonderful that that information is forthcoming to the extent that it is in question period, but it's curious that the proposed changes by the government would deny access to certain records and documents that those very same chairmen have access to. So

while the government may ask those chairs to supplement answers in question period here in the Assembly, the public, apparently, will have no right to access the very same information through a public process known as freedom of information. That seems to me to be deeply offensive, and I would argue that there is no place for it in a freedom of information Bill. So I look forward to the detailed debate at another stage in this Bill.

Now, there is another section as well which is a major departure from the freedom of information Act, and if the Government House Leader will allow, it is section 10 that I'm referring to. I won't talk any more about it specifically. But I can tell you, Mr. Speaker, that you should be particularly interested in this section because it talks about you and it talks about your office. It should be kept in mind that there is a long-established custom that no other arm of the government, including the Premier or the cabinet, can encroach on the ability of the Legislature, acting through the Speaker, to control its own process. I wonder why the Speaker's discretion is being toyed with now in this Bill, why that would be. So I can only wait with bated breath for the opportunity to discuss that in detail.

The hon. Government House Leader is informing me that my time has expired, Mr. Speaker, so thank you.

THE SPEAKER: Before we proceed, might there be unanimous consent in the Assembly to revert to Introduction of Guests?

HON. MEMBERS: Agreed.

THE SPEAKER: Opposed? Carried.

The hon. Member for Lesser Slave Lake.

head: **Introduction of Guests**

MS CALAHASEN: Thank you, Mr. Speaker. It's with a great deal of pleasure that I would like to introduce to you and to members of the Assembly two very important people. One I had lost contact with, and I'm happy to see that he's here tonight: Mr. Dixon Armitage. He lives in Edmonton but hails from Kinuso, Alberta. The second visitor is Mr. Gilman Cardinal from Slave Lake, involved with northern Alberta job corps in Slave Lake, one of the best corps run in the north. Gilman had a heart attack but is back in full force. I guess you just can't clip those Cardinal wings. Yes, he is the brother of our very own Minister of Family and Social Services, Mike Cardinal. I'd ask that they rise and receive the warm welcome of the Assembly.

head: **Government Bills and Orders**

head: **Second Reading**

Bill 19
Freedom of Information and
Protection of Privacy Amendment Act, 1995
(continued)

MR. DAY: Mr. Speaker, the Member for Edmonton-Glenora in his opening remarks, which I was listening to, made comments in reference to the chagrin he was experiencing relating to the fact that the Member for Calgary-Buffalo was not here to address this Bill tonight. First of all, I had not been served notice that the Member for Calgary-Buffalo was the source of all wisdom and truth on this particular Bill. Then there was a reference made alluding that possibly it would have been good if they had known this, if he could have been able to be here, or if we could have addressed this last night when the esteemed, all-wise Member for

Calgary-Buffalo, who knows everything about information and privacy, was here. I would suggest that, because the member raised those comments at the second reading stage and was allowed to comment on that, he communicate with his House leader, because in fact as related to projected government business last week . . .

8:40

MR. GERMAIN: Point of order, Mr. Speaker. Relevance.

MR. DAY: Well, it must be relevant, because the member opposite talked along this line. [interjections]

THE SPEAKER: Order. I would suggest to hon. members that this is a debate on second reading.

MR. DAY: So in further reference to Bill 19, I would say that to discuss this particular Bill, even though projected government business specifically said it was going to be Wednesday night, at the request of the Opposition House Leader, I said, yes, we would try and accommodate the Member for Calgary-Buffalo last night, even though we had our projected business laid out, as long as the minister could be here. His plane was delayed, something over which he had no control, and he couldn't be here. To further accommodate the all-wise Member for Calgary-Buffalo, I have an agreement with the Opposition House Leader that tonight we will only have the minister presenting remarks and a member of the opposition responding and in fact we would then adjourn debate. So I would suggest that before the member makes those remarks, he do some basic communication with his House leader, who actually communicates with me on a daily basis and in a very collegial and amicable fashion.

On that note, I would move to adjourn debate on Bill 19.

THE SPEAKER: Having heard the motion by the hon. Government House Leader to adjourn debate on Bill 19, all those in favour, please say aye.

SOME HON. MEMBERS: Aye.

THE SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

THE SPEAKER: Carried.

Bill 16
Workers' Compensation Amendment Act, 1995

[Debate adjourned March 27]

SOME HON. MEMBERS: Question.

THE SPEAKER: The hon. Member for Sherwood Park.

MR. COLLINGWOOD: Thank you, Mr. Speaker. The members opposite are quick to call "Question" on a very important Bill having made absolutely no comments whatsoever to a Bill that is sponsored by the Minister of Labour, which is somewhat surprising. I would have thought that the Minister of Labour would at least make some comments about the intent of the Bill and what the Bill attempts to accomplish. So to move so quickly to calling the question I think simply indicates that the hon. members opposite aren't much interested in debate . . .

THE SPEAKER: Order please.

The hon. Minister of Labour on a point of order.

Point of Order

Allegations Against Members

MR. DAY: Well, under 23(h) and (i), I would say, these allegations about not wanting to make comments on an important Bill. I can't comment on another member's absence or presence, so I won't. But if the member indeed was here when this Bill was introduced, he would have known that discussion on this was extensive. As a matter of fact, the first three speakers, including myself, totaled 57 minutes on this one Bill. My own comments went the full 20 minutes. So like the partner sitting left of him, to his left, continually to his left, and always to his left, I would suggest that they tune in before they make comments of which there is no basis in fact.

MR. SAPERS: Under Standing Orders 23(h), (i), and (j) and all that goes with it, Mr. Speaker, the Government House Leader just made the assertion that in fact I somehow don't speak facts, and I would like the Government House Leader to cite chapter and verse. I'd like him to stand up right now and justify that remark or withdraw it.

THE SPEAKER: The Chair heard some comments about lack of information, that certain members had the lack thereof, but the Chair didn't hear the hon. Government House Leader accuse the hon. member of intentionally misstating the situation. [interjections]

Well, in any event, the Chair feels that the hon. Member for Sherwood Park really has something valuable to contribute to the debate on Bill 16 and therefore recognizes the hon. member to get to the nub of the matter.

MR. COLLINGWOOD: Indeed. Thank you very much.

Debate Continued

MR. COLLINGWOOD: Mr. Speaker, the amendments to the Workers' Compensation Board under Bill 16 do have some positive attributes and indeed do have some negative attributes to them, the latter outweighing the former. Accordingly, I would not, with respect to this Bill, support it in the form that it is in. That's not to say that if the matter goes to committee stage, there would not be the opportunity to offer constructive amendments to improve the legislation.

Mr. Speaker, there are some positive attributes to the Bill, as I've said. The Workers' Compensation Board changes that are being made here are indeed being made through the legislation in Bill 16 and are not being made through regulation, as we have seen very often occur with this government. It does give members on both sides of the House an opportunity to debate. So indeed that is a plus with respect to structural and operational changes to the Workers' Compensation Board.

The changes that are contemplated in this particular Bill do tend, Mr. Speaker, to move us in the direction of the delegated administrative organizations that were contemplated in the government's Bill 57. As we have alluded to a number of times, Bill 57 has been withdrawn from the Order Paper by the government, and we do not anticipate that it will be returned. So while we are indeed moving to the delegated administrative organization model as quickly as the government can get us there, one of the positive attributes of this Bill is that the Workers' Compensation

Board as an entity cannot be incorporated as a corporation under other provincial legislation without the approval of cabinet. Now, having said that, of course there is little difficulty in having the executive of government, the cabinet, simply pass an order in council that grants that approval, and we move further down the delegated administrative organization road simply through that order in council. As I say, the fact that at least that step is required is, to the extent stated, a plus for this Bill.

Mr. Speaker, another positive attribute of the Bill is that the Workers' Compensation Board is still accountable for its financial affairs to Albertans and to the Legislative Assembly. Under this legislation the Auditor General must appoint an independent auditor in consultation with the board, and the annual reports must be tabled in the Legislative Assembly and included in the public accounts. So to that extent we still have the accountability factor for the Workers' Compensation Board. There is still the involvement of the Auditor General in terms of the appointment of an independent auditor in consultation with the board. So we will still have those links, those ties, on issues of accountability and on issues of financial reporting to the Legislative Assembly and review through Public Accounts.

There is built into this legislation, Mr. Speaker, a one-year time limit for filing appeals to the Claims Services Review Committee, the appeals committee, and the assessment review committee, and our caucus would suggest that this seems to be, in the circumstances, a reasonable compromise. So I would suggest that that is again a positive attribute of the legislation.

Another positive attribute is that cabinet can make regulations and issue directives that it considers necessary with respect to the operation of the board itself, the appeals committee, and the accident fund, doing that under the Financial Administration Act. So there again, as I say, while there is some movement away from the direct links, there is still at least certainly the opportunity to have direction come from cabinet where cabinet considers that it's necessary with respect to the operation of the board, and that would be seen as a positive with respect to Bill 16 as well.

8:50

There are, on the other hand, Mr. Speaker, some negatives. As I've indicated, there are some things that are omitted from the Bill that should probably be in the Bill, and we would like to see those provisions added. One of the difficulties with Bill 16 is that it's unclear as to who would be liable for payment of present and future claim costs in the event that a situation occurred in which there were insufficient funds for the accident fund. Currently the government is responsible for advancing from the general revenue fund payments that are required to cover any deficiency in the accident fund under section 85(3) specifically. Now, it's important that we know, if there is a deficiency in the accident fund, where that comes from. It's not clear now as to where that's going to be.

Now, I know that the minister is looking to have the Workers' Compensation Board demonstrate itself as more accountable and responsible to the stakeholders rather than to government so that it is the employers and the employees who feel they have a much greater vested interest in the successful operation of the Workers' Compensation Board. Given that, there is to some extent, I guess, the cutting of the umbilical cord here. I would submit that it is not sufficiently clear: if there is a deficiency, where will it be covered if it's not under the GRF? I suppose it's always possible for the board in those circumstances to issue further levies, but again what I'd suggest, with respect to that specific provision, is that it's unclear who would be liable for payment on the present and future claim costs.

Another concern, Mr. Speaker, is that although the Auditor General would be able to appoint an independent auditor under the amended section 87(1), it's not clear whether the Auditor General can initiate an investigation of his own accord, since the WCB would no longer fall under the scope of the Financial Administration Act.

Mr. Speaker, my colleagues and members opposite will know that our debate, short as it was, on Bill 57 last term, not having had an opportunity to debate it this year, is that one of the concerns with moving to the delegated administrative organization structure or model is that then it would remove the ability of the Auditor General to investigate and look into the affairs of those delegated administrative organizations. That concern continues to exist here. If it does not fall under the scope of the Financial Administration Act en bloc, because there are some sections of the Act that I believe will still apply, the question then is whether or not the Auditor General has the ability, has the opportunity, has the legislative authority to initiate an investigation into the financial aspects and operations of the WCB of his own accord. That is a concern. If that's not the case, it would appear that that will not be the case.

Following up from that, Mr. Speaker, and in fact as it relates to the debate earlier this evening on Bill 19, given that the WCB, the Workers' Compensation Board, will be beyond the scope of the Financial Administration Act, it is also not clear whether the Freedom of Information and Protection of Privacy Act or the Ombudsman Act would apply to the activities of the WCB. Now, that in and of itself could be very, very important to the unfortunate Albertans who find that they have to rely upon the services of the Workers' Compensation Board. You know, the Workers' Compensation Board is someplace that nobody ever wants to find themselves. The fact that they're dealing with the Workers' Compensation Board means that they have suffered an injury or something debilitating as a result of the work that they're doing. It is unpleasant at best because they're dealing with convalescing. They're dealing with having to cope with difficult financial circumstances. They're dealing with having to get through whatever red tape has to be dealt with at the Workers' Compensation Board. I have actually been fortunate that I have not ever in any of my past work experience had to file a claim with the Workers' Compensation Board, but I can't imagine that it would be an experience that anyone would want to go through.

Mr. Speaker, I think members have recognized that there have been many problems with the operation of the Workers' Compensation Board. It's a vast and complex structure. It deals with thousands of claims annually, and certainly because of that, there are circumstances when particular individuals, particular Albertans, fall through the cracks. I'm sure every member in this Assembly has had calls and letters from constituents to their constituency offices on matters of Workers' Compensation Board claims. I suspect that it's probably one of the highest incidences of inquiries that we get at our constituency offices. So we know firsthand from being in our constituency offices, from listening to our constituents that difficulties or at least concerns with the Workers' Compensation Board are a common situation that arises in those offices.

With all of that it then becomes a greater concern that the Freedom of Information and Protection of Privacy Act and the Ombudsman Act may not apply to the activities of the Workers' Compensation Board, given that under the legislation as proposed in Bill 16 the Workers' Compensation Board would be beyond the scope of the Financial Administration Act. Now, Mr. Speaker,

at this point I would submit that it is not clear whether it is. If it is not, that causes us a great deal of concern. Perhaps the legislation should clearly indicate that those pieces of legislation do apply to the Workers' Compensation Board.

Just a couple of others. Another concern is the ability of the board to waive the one-year statutory limitation for commencing an appeal under the Claims Services Review Committee and the appeals committee, which in and of itself again could lead to more uncertainty and delay in decisions relative to claims. What we want to do of course, Mr. Speaker, in any amending legislation to do with the Workers' Compensation Board is speed up that process, not delay it. We want to create greater certainty, not greater uncertainty. Potentially the one-year statutory limitation could pose the problem that in fact we will have greater delays and greater uncertainty.

One of the other aspects of the Bill, Mr. Speaker, is that the president is to be selected now by the board of directors rather than by the minister, but of course the board of directors itself is still appointed by the minister. So notwithstanding that the Workers' Compensation Board is to be more accountable to the stakeholders, the employers and the employees, the patronage appointments from government will continue to the board of directors of the Workers' Compensation Board.

Another concern is that the prohibition on future unfunded liabilities and the ability to establish a rate stabilization reserve in the proposed Bill is poorly defined. There is no definition of what constitutes sufficient money in the accident fund or sufficient money in the rate stabilization reserve. Mr. Speaker, we know that "sufficient" is a subjective and relative term, so we don't know, then, what will constitute sufficient money in either one of the funds. The concern there is that if the level is deemed insufficient, the response to that would be that the WCB could impose upon employers a significant assessment to bring those funds back up to levels which are deemed, subjectively again, sufficient.

One of the other changes, Mr. Speaker, I'll just mention quickly is the definition of "expedient" relative to the ability of the board "to invest in, sell and reinvest in any securities or other investments" is also unclear. That authority, as I understand the terms of the Bill, will move over to the board of directors itself, but there is a lack of clarity as to the authority for the board to deal with those investment matters.

Mr. Speaker, I think I have raised the concerns that I have with respect to Bill 16. I have indicated in my remarks that there are some positive aspects of the Bill. There are some negative aspects of the Bill, those that I have mentioned. At that point I'll conclude my comments and allow other hon. members to enter the debate if they so choose.

9:00

THE SPEAKER: The hon. Member for Lethbridge-West.

MR. DUNFORD: Thank you, Mr. Speaker. It's rather interesting that I find myself rising to speak in favour of a Workers' Compensation Amendment Act for the second time in approximately a year. Unfortunately, the previous time that I stood to talk was on a Bill 210. Those in the House might remember that infamous little piece of legislation brought forward by the Member for Lethbridge-West and that it went to a rather resounding defeat. However, I expect better things to happen with Bill 16.

Certainly I want, in talking about the principle of Bill 16, to talk about the general agreement I have with placing the WCB further at arm's length from the government. I think this is a wise move. Like the previous speaker I am not exactly sure how

the financial statements now of WCB are going to fit in or be consolidated with the financial statements . . . [interjection] I'm short, and I'm cool. [interjection] All right. Okay.

One thing I want to indicate, though, in Bill 16 is that we must find a way in which to concern ourselves . . . [interjections]

THE SPEAKER: Order. Hon. members, please give the hon. member a chance.

MR. DUNFORD: Last Friday, as a matter of fact, I met with a group of injured workers from Lethbridge. While they as well were generally in favour of a lot of the amendments that appear in this Bill, the one thing they asked me to do was to bring forward to this Assembly both the urgency but also the requirement that somehow the injured worker be looked after. If in fact we're going to move the Workers' Compensation Board further from the government, who is going to be there for the injured worker? I have to say that as they started to talk about this, I wasn't fully onside with them, but as we developed the conversation, I agree with them. As they pointed out, the injured worker is not properly represented by either the employer or the worker. What happens to the injured worker? He soon finds he is no longer a worker. These people in a tremendous percentage of the cases actually end up never really getting back into the workforce, and they need somebody to look after their interests. When we get to the committee stage of the Bill, I would hope that people would give that some consideration, and I certainly will plan to stand and talk about that area as well.

From the employers' side some employers have expressed concerns to me about rate stabilization. This is employers' money that funds this, and they are asking: "Why would we want to try to generate another heritage savings trust fund inside WCB? We already have one." It's their money, and really, if we're in a situation where we're into reduced incidence and reduced claims, we ought to be looking at assessment decreases and not trying to set up a little piggy bank.

The last item I want to talk about tonight is just to indicate to you, Mr. Speaker, that for eight years I had the real honour of sitting on the Occupational Health and Safety Council. I enjoyed my period of time, and I felt like I contributed. As I look at this Bill and as I look at the manner in which the WCB would be more directly involved in the fact that they may establish, fund, and carry out programs directed at injury prevention and injury management in the workplace, that seems to me to be the mandate of the occupational health and safety division of the Department of Labour. I would be extremely interested as to what the future of that organization might be.

Now, Your Honour, being short and being cool, I will sit down.

THE SPEAKER: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you, Mr. Speaker. I'm grateful that the hon. member opposite kept his remarks short. I recognize that the House rules don't allow me to gobble up his extra time, but I do have some comments to make about this Bill, and I want to take up exactly where he left off.

Every Member of this Legislative Assembly should remember, Mr. Speaker, that people who are tragically injured in industrial accidents are victims, and they are in a second way victimized because by legislation, concurrent with the industrial evolution of the way that we do business in North America, their rights to sue those people who injured them have been taken away from them.

When people go to the Workers' Compensation Board – and I've seen in my constituency office, in the short time I've been an MLA, grown men with families break down and cry because nobody seems to care or nobody seems to listen to what they perceive are their ailments. It is a frightening prospect that we could end up in a situation where what we're doing here is marginalizing an entire group of working men and women who have simply had the misfortune of being injured in an industrial accident.

Now, Mr. Speaker, if in the normal course of events you are injured in a motor vehicle accident that somebody else has caused or if you are injured by falling down the steps of a store or you are injured by having an erroneous procedure done to you in a hospital, you are for the most part guaranteed that you will be put back in the same position that you were in before the injury occurred. That is that if you were earning \$80,000 a year, you will get \$80,000 a year, and if you happen to have 50 years left in your lifespan, it will continue for each and every one of those years.

People look at those individuals as victims. They look at them as legitimate victims, but there seems to be a view in some quarter that injured workers who are injured working to try and keep the commerce of this country going and the commerce of Alberta going are somewhat inferior. They have to beg for what they get. They go to tribunals where the rules of evidence are not clearly set out. Often they go with caseworkers that appear ill-prepared or overworked. Often they come in and they ask you to do this, Mr. Speaker: they ask you to write to the minister. Write to the minister simply for the common courtesy that they could get a response to their letter or a response to their call when they've been promised one for two weeks.

Let us never forget, when we debate legislation on the Workers' Compensation Board, that this is not a freebie. This is not a gimme to workers. This is not something that we're throwing into the hat. Each and every worker in the province of Alberta has given up a fundamental right when he takes a job to which the workers' compensation industry rules apply, and that is that he has given up his right to sue and the right to collect clear and fair damages. Let us never forget that each and every employer who pays a premium into the workers' compensation legislation is paying for the immunity that he gets so that his business, his small business, his family business will not be ruined, will not be bankrupt, and will not be overburdened by a negligent error that occurs. A co-worker who works alongside an injured worker who may turn on an electrical switch one minute before it is safe to do so, who may move a platform one minute before it is safe to do so, who may invite someone to go into a tank without providing him a proper Scott Pak to the detriment of the injured worker, that worker who works alongside the injured worker also knows that he can sleep well at night, that he can be confident he will not be sued and be put into bankruptcy because of his negligent act that may have cost his co-worker some serious injury.

So in that equation, Mr. Speaker, all three of the parties have some vested interest both in ensuring that the system is fair and in ensuring that the workers' compensation program fairly compensates for legitimate injuries. To the extent that it fails in that goal, we should be concerned in this Legislative Assembly, and I think that echoes the comments from Lethbridge-West that were made earlier.

9:10

Mr. Speaker, against that backdrop I want to draw the minister's attention to some sections of this Act that are of potential

concern and some things that he might want to look at. In his approach that, "Well, if I back down, I'll be perceived to be weak; if I back down, I'll be perceived as not having thought the legislation out well enough," we accept, I think maturely, in this Assembly that legislation which is marketed and sold in this Legislative Assembly as being near perfect is often subject to a massive amount of changes.

Digressing for only a moment, Mr. Speaker, before you rein me in. We saw the Regional Health Authorities Act last year that underwent amendments over a hundred percent greater in size than the original Bill, and the Municipal Government Act which last year was marketed to all of us as being the best thing since sliced bread and a simple, commonsense approach to bring government right back down to the people and empower the people. Well, by golly, we got an amendment book here just the other day that's twice as big as the Act was that we debated last year at some considerable length. So we have to maturely accept that the government makes lots of errors in their legislative drafting.

The minister has a choice, Mr. Speaker. He can accept the constructive criticism now, or he can wait a year and then have to come in with another piece of legislation that is equally long. I hope that this year as a change-up, as a little change-up in procedure, he will accept the constructive criticism now and take some of the good advice that he has heard here from both sides of the Legislative Assembly.

Against that, Mr. Speaker, I want to direct the minister's attention to both section 11 and section 40 of the new Act. Those are the section numbers not of the amendment but how they will appear in the particular legislation. Section 8 has several amendments in this Bill, found on pages 2 and 3 of the actual Bill. One of them is that there is no appeal from a decision that relates to whether an injured worker will get more time to appeal. There's no appeal from that. Now, I want to ask the minister to take a long, hard look at that. I want the minister to remember that the employee has given up his right of litigation. The employee has no other recourse except to get a pension from the Workers' Compensation Board. Surely, ladies and gentlemen of this Assembly, the test should always be "Does somebody deserve a pension because they were injured on the jobsite?" not to take their right of pension away because they miss a time period.

Now, if they miss the one-year time period, the scheme of the Act says that they can apply for relief, but there is no codified guideline on which the relief should be given. For example, under the Municipal Government Act as it previously was, there was also a relief section, and you would get relief always unless the tribunal or the board could find, in fact, that there was some prejudice. There is no requirement of prejudice in this particular section, Mr. Minister. There is no guideline whatsoever, except the capricious will of some member of a board to say yes or no to an extension of time. Surely, Mr. Speaker, it would not be harmful for the minister – in fact, it would show some sign of maturity and it would show a recognition of the serious rights that the workers have given up – if the worker could appeal to the Court of Queen's Bench for special leave, a special appeal procedure so that the injured worker who has given up his legal rights could in fact take the approach that unless a prejudice can be shown, he will be given his right to advance his appeal.

After all, Mr. Speaker, this injured worker has given up in advance the rights that he has in the court, and to the extent that we can duplicate those rights without getting involved in a complex court procedure, there is no skin off the minister's nose, if I can use that expression in the Assembly, in giving these

injured workers a chance to appeal that decision to either the Alberta Court of Appeal or to the Court of Queen's Bench. In a conjunctive way to that, there should be no problem on the part of the minister to making it very clear in that section that leave to appeal will be granted unless there is some prejudice to the worker.

Now, Mr. Speaker, we can bring that in as an opposition amendment, but I've been here now long enough to know that that simply retrenches the minister, and the minister will not accept an opposition amendment. He may be persuaded to bring in his own amendment using your draftsmanship. We need no credit for it. We suggest to the minister that he take that idea and that he look at that section and that he make some changes, changes so that when he then travels the province, he can look injured workers in the eye and say: I stood up for your rights. That's what he can do if he makes those kinds of changes. He can actually say that and those words will flow from his mouth, as opposed to being choked out of his lips: I stood up for the injured workers.

Parallel to that, Mr. Speaker, the same argument can be made in section 40(9), which is again the one-year appeal period but, in this case, for the levy of an assessment and the employee's concern about assessment levies.

Now, I want to draw the minister's attention as well to section 86(1). The member opposite commented on it. The member who spoke before me from this side of the Assembly commented on it. We allow this new board to have its own essential heritage trust fund, if I could use that expression. Sloppy as the Treasurer's definition was last night, when the Treasurer acknowledged that the laws of Alberta would be worded in such a way that investments made by the Treasurer did not have to be based on good financial accounting principles, he fought for that, and he refused to defer to opposition criticism that that was wrong. The Treasurer fought for the right to make bad investments. In this particular section it's worse than that because there's no attempt even to direct this particular tribunal to making investments based only on good, acceptable accounting principles.

So the Minister of Labour, if he wants to be consistent in his drafting, if he thinks it's important for the government to be consistent in their drafting, would do well to look at the Treasurer's half-hearted attempts to protect Albertans in his particular Provincial Treasurer's amendment Act. The minister would do well in section 86(1) to put a section in there that says that when they make investments, they rely on generally accepted, good accounting principles so that we don't have another travesty of workers' levies and likewise their pensions being frittered away by mismanagement so that what we have is a double loser. We have workers now who can't get pensions because the board is tight, and we have employers who have funded this slush fund that has been frittered away.

The minister probably thinks it can't happen in Alberta. Well, if it could happen in Orange county, one of the largest counties in the state of California, it could surely happen in Alberta, and it could surely happen in this particular . . . [interjections]

THE SPEAKER: Order. [interjections] Order. [interjections] Order.

MR. GERMAIN: Mr. Speaker, I heard some of the comments hollered out, and I'm sorry if the members do not sense a concern when members of this Assembly are speaking for good financial safeguards on funds.

Since the member asked if I've done any accounting, yes, as a matter of fact, I have done accounting. I'm familiar with the computer accounting programs. I've spent 20 years reading and analyzing financial statements. As a requirement all members of the legal profession, the profession that some members opposite are fond of catcalling, are obliged, you will recall, Mr. Speaker, to have accounting training before they get their ticket. So if that was the comment, I'm happy to answer it.

Now, let me move on . . .

AN HON. MEMBER: When was the last time you invested on basic accounting principles? [interjections]

THE SPEAKER: Order. [interjections] Order. Hon. members, there is a procedure set out in the rules for asking other members if they'll accept a question, and it's not in order to be doing it from your seat.

The hon. Member for Fort McMurray.

9:20

MR. GERMAIN: Well, thank you, Mr. Speaker. As a matter of fact, I always rely on good accounting principles before I make any investment, and I'm proud to advise the members of the House that to date, at least, my wife appears satisfied with my efforts in that regard. [interjections]

I'll be wanting to send this speech out to the workers, to the employees and employers alike, Mr. Speaker, so I won't deal with the other rudities coming from, I believe, the Minister of Justice.

It must be the spring break coming, because the Assembly is getting giddy, Mr. Speaker. It's too bad that such an important piece of legislation comes at this giddy time, but it is important, and I want to continue my opportunities to speak up for the injured workers of this province and to speak up for the employers of this province who are funding this program.

I want to direct the Assembly's attention now to section 20, on page 9. Now, this is a very interesting section. This is the section, Mr. Speaker, that gives the workers' compensation entourage full carte blanche protection from the courts. There is nobody except Her Majesty the Queen and those personages that hold that figure that are exempt from being subpoenaed to give evidence in a court of law, yet this particular minister transcends the power and authority of the courts by designating and creating an entire class of people that cannot be called to give evidence in court. If you look there, no member of the board, no employee of the board, no appeals commissioner, no employee of the appeals commission "shall be required to give evidence in a civil suit" unless the board is in some fashion named in that suit.

Now, subject to the rules of relevance and subject to the individual's right to apply to the courts to cancel a notice to attend to give evidence, how can we in the workers' compensation legislation totally rule out a class of people and say that their evidence will never be relevant and that they shouldn't give evidence in court? If it is because of the confidential nature of some of the decisions, then they shouldn't give that evidence, but let's be fair to all Albertans, Mr. Speaker.

Suppose that the Minister of Labour is involved in a motor vehicle accident, and the police have the temerity to suggest that he caused it. Let's assume further that he isn't able to talk his way out of it. Then he might be concerned as to whether or not the person who claims that he injured him was in fact involved with a workers' compensation procedure that resulted in a pension and resulted in an injury. That evidence would be important in that subsequent case.

We should never put artificial roadblocks in front of the truth. We should never have as a matter of government policy the opportunity for people to hide behind protections in the legislation to allow for them to not be subject to proof and the establishment of the truth. I would like to suggest again to the Minister of Labour that there is no problem to him and that his legislation does not suffer one iota if he adds an amendment to section 20 which says that there'll be no requirement to give evidence unless ordered to do so by a Court of Queen's Bench. That's a fair and reasonable approach to that legislation.

MR. DAY: Point of order.

THE SPEAKER: The hon. Minister of Labour on a point of order.

Point of Order Second Reading Debate

MR. DAY: Again, the same citation as earlier, referring to the stages of the Bill. I am listening intently, and he's asking for certain amendments. I am waiting for the committee stage to actually address some of those and to entertain some of those. Just a quick encouragement to stick to the principle. I really am looking forward to the committee stage, where I can address these specifically.

THE SPEAKER: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you. On the point of order, Mr. Speaker. One of the principles of this Bill is to prevent people from getting access to the truth. That's a principle expressed in this Bill, and I was addressing my comments to that principle. At the same time, to reamplify my economy of words, that the House is familiar with, I was also sort of giving the minister a little head start so that he doesn't stand up here in a few days and say, "Oh, well, we didn't have time to put it together." I thought that was a reasonable approach.

THE SPEAKER: Well, I think in these circumstances the Chair will just ask the hon. Member for Fort McMurray to continue his remarks.

Debate Continued

MR. GERMAIN: Thank you very much, Mr. Speaker. I apologize to all members of the Assembly, because my planned narrative, then, of course now will run on that extra minute because of the Minister of Labour, but I'll do my best to catch up the time out of my time.

The other remaining three issues that I want to address the minister's attention and the Assembly's attention to in overview are these: the representatives on this board must always be, Mr. Speaker, scrutinized and appointed with almost the same care as we would appoint our superior court judges in this province or our Provincial Court judges in this province. This board will have awesome powers, sir, in a situation where people have given up their legal rights, and I would strongly urge the minister to consider that all of these appointments be made on a nonpartisan, application basis and carefully considered.

Thank you, Mr. Speaker.

THE SPEAKER: The hon. Member for Edmonton-Meadowlark.

MS LEBOVICI: Thank you, Mr. Speaker. Given the hour, I will be brief, but I wanted to express my concerns with Bill 16

and read into *Hansard* concerns from a particular group of injured workers from the Lethbridge and District Association of Injured Workers. Bill 16 attempts to address some issues with regards to WCB, but the realities are that there are still many issues that have been left unaddressed within Bill 16. We are still waiting, as are the injured workers across this province, for a number of recommendations that have been put forward by various studies that have been commissioned by WCB or by the government to be implemented. Those still to date have not, in effect, come into full play.

What we're seeing is that WCB has indicated that they have dealt with their unfunded liability, but there are still many questions in terms of whether the unfunded liability, the \$600 million, was actually eliminated in effect or was the result of a combination of administrative savings, reducing claims costs, and simply changes in terms of actuarial assumptions.

The other issue that comes to mind when one looks at Bill 16, is the fact that WCB is only there if workers get injured, and if we could prevent the injury of workers in the workplace, then in effect we would, hopefully, come to a point where WCB would not be required. If all workplaces in the province had appropriate or, as we have requested from this side of the Legislative Assembly, mandatory health and safety committees, then there may be less reason for compensation, less reason for appeals, less reason for, perhaps, the existence of WCB as we now know it.

There are definitely issues that have come about as a result of the cost-cutting techniques that the WCB has put into place. One that we are seeing over and over again in our constituency offices is the backlog with regards to appeals, that more and more workers seem to be forced into an appeal process. There are questions with regards to the board membership that's being proposed within Bill 16, the inadequacy of injured workers in terms of representation on that board.

9:30

One of the other issues that I'd like to bring up with regards to the Workers' Compensation Board is the fact that the Alberta Workers' Health Centre has not had its funding renewed as of December 31, 1994. That funding was used in effect to help workers with their appeals. This is just one more area where we see that workers and their appeal processes are not being considered, and again in terms of the experience we have within the constituency offices, advocacy is something that we all know is required.

The other issues that I'd like to bring up are those concerns – and we will address these in more detail come committee stage of the Bill – that the Lethbridge and district association had with regards to proposed changes that would give the board of directors too much power with no accountability. One fears that the board with this power might result in the closure of regional offices in the province so that injured workers would have to deal with a central location as opposed to being able to deal with their locations throughout.

There is also a concern from the association and a request that this Bill not be enacted until such time as an all-party commission has sat down around the table with the WCB, employers, injured workers' groups, and other interested parties to discuss and amend the Bill to make it a lot more reflective of the requirements of injured workers and employers within the province.

The association also talks about the concern that I talked about earlier in terms of the number of claims that are presently in place and the length of time that it's taking to address those claims. They do say that Bill 16 is a good place to start a discussion and

that the Act can be improved to make it more effective if all interested parties are involved in the revision process.

So I would request that the minister look at this seriously and allow for full input into Bill 16, as opposed to perhaps trying to rush it through the Legislative Assembly through committee stage.

There are a number of other issues in terms of omissions with regards to Bill 16, and these are concerns given that the WCB will no longer fall within the government reporting entity. It will become a DAO and perhaps eventually become totally privatized. It's unclear under Bill 16 as to who will be liable for payment of present and future claim costs in the event that a situation occurred in which there were insufficient funds in the accident fund.

There's a question with regards to the performance measures. What happens in terms of benefits being reduced through the claims process? It's also not clear as to whether the Auditor General can initiate an investigation of his own accord since the WCB would no longer fall under the scope of the Financial Administration Act. Furthermore, given that the WCB is beyond the scope of the Financial Administration Act, it is not clear as to whether the Freedom of Information and Protection of Privacy Act, which we talked about a little bit earlier this evening, and the Ombudsman Act would apply to its activities. When we looked at the report from the Ombudsman that he tabled last week, there were a significant number of requests to look at the operation of the WCB and some of the decisions that the WCB made.

The issue with regards to the one-year statutory limitation for commencing appeal has been discussed by other members, and that is definitely a concern. There's a concern as well in that the president is selected by the board of directors, which is a good move, but in actual fact the board of directors is still appointed by the minister, and there may be the potential for some patronage as a result of that.

There needs to be further clarification in terms of the WCB role as well as with regards to supporting work injury reduction and research programs. There are some overlaps there with WCB and occupational health and safety. One of the concerns that we hear within our constituency offices as well is with regards to the amount of retraining or lack of retraining that occurs at WCB. I think that this is an area that's extremely important in terms of putting people back into the workplace.

These are just some of the general concerns that I have with regards to Bill 16. To just capsule them for the members, one is the liability for the payment of present and future claims, the inability of the Auditor General to initiate his own investigations, the nonapplicability of the freedom of information Act and the Ombudsman Act, continued political appointments potential, and that what also needs to occur is a definition of the sufficient funds within the accident fund and the rate stabilization reserve. I hope, as the Member for Fort McMurray pointed out, that the minister will be open to amendments that are going to be brought forward by the loyal opposition and that the minister is also open to some of the concerns that have been put forward by different stakeholder groups with regards to the actual specifics of Bill 16.

With those comments, I would like to thank the minister for his attentiveness to the comments that I've made. Thank you.

MR. DAY: Well, just in closing, I'll make I think a suggestion which may be somewhat unprecedented. That would be that in anticipation of suggestions for amendments, some of the information and concerns and questions I've heard tonight – and I say this in a sincere sense – may have been resulting from some lack of information about certain processes that are in place now and

which in fact won't be changed. But I'm going to make a commitment, as I close debate in second reading, to do an intense focus over the next four sitting days, on which we won't be here, to respond in writing to the specific points. There may be some agreement, then, that these areas are already addressed in the Bill, or in fact there may be some recognition, then, that the opposition says there would have to be amendments. But that may facilitate the discussion. I realize it has no legislative weight, but it may facilitate discussion. So I'm going to commit to do that as we draw to a close in second reading.

I would move second reading of Bill 16.

[Motion carried; Bill 16 read a second time]

MR. DAY: Mr. Speaker, I think my life expectancy would be somewhat abbreviated if I did anything else but wish everybody a good, restful time with family and constituents over the next few days and move that we adjourn, pursuant to the motion to adjourn, for the break ahead.

[At 9:40 p.m. the Assembly adjourned until Monday, April 24, 1995, at 1:30 p.m.]