

Legislative Assembly of Alberta

Title: **Monday, May 1, 1995**

8:00 p.m.

Date: 95/05/01

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

[Mr. Tannas in the Chair]

THE CHAIRMAN: Order. I'd call the Committee of the Whole to order.

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

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

MR. FISCHER: Well, thank you, Mr. Chairman. I'm pleased to open the debate in Committee of the Whole on the Freedom of Information and Protection of Privacy Amendment Act, 1995. As it was unfortunate that I didn't get an opportunity to make a few closing remarks during second reading, I thought I would like to make just a few general remarks on the amendment Act.

I first would like to say thank you to all members of the House for their comments and their support regarding amendments to this Bill. Many members of the opposition had a good opportunity to discuss many of the finer details of this amendment Bill, and I'm assuming that, being the good conscientious folks that they are, they wouldn't want to repeat themselves too many times when they got into committee. I do appreciate, though, the views and concerns of the members opposite regarding this Act, as it is very important to us.

It was mentioned in second reading that we are upgrading and perfecting the freedom of information and protection of privacy legislation. Certainly with these amendments I want to assure all of our members here that they can feel comfortable with these amendments as we have put an awful lot of time into reviewing other provinces' legislation and into reviewing the federal legislation. We have taken the best parts of each one of those provinces' legislation, and we've put them together, and we are in the process of forming the best freedom of information Act in Canada. Certainly our legal counsel in Justice and our officials in public works have worked very hard on this Bill, and I really want to compliment them on their efforts with the Bill.

We did also take a little trip over to B.C. and had an interview with the commissioner there as well as the records management personnel and some of the people that were already in the process of handling records to see how it was really going. Certainly it was very valuable to us, and I think that every member in this House needs to have a good feel for how the Act is going to operate after we get it going.

One thing that was mentioned in second reading, of course, was the cost. I would like to just run a couple of things past you, because I don't want people to feel that the cost of this is going to be as minimal as I heard people talking about. To begin with – and this is the start-up costs that we're talking about – the commissioner's office has a budget of \$450,000. For the records management branch there's a budget of \$950,000. Right away we have to do a lot of training of personnel in each of the departments, and this is according to a lot of the B.C. legislation and how it's going now. The costs from each department that have to screen this information – when somebody gets a letter asking for

information, it's not just cut and dried. They have to separate that information and take out the parts that are exempt from the Act, and then they have to go to all of the records that they've got and dig that out. It does take a lot of personnel. In their case they started out and had hoped that they would have 75 full-time personnel doing this job. It turns out that they already have over 100, and it's still growing. When you talk about that number of full-time equivalents that are working on strictly this, then I think that we have to be very careful about how we formulate this Act so that it doesn't encourage too much use of this Act.

I think one thing that I heard in second reading and that I believe is going to be very positive that comes out of this Act is that a lot of our members and members of the opposition, especially the Member for Edmonton-Roper – it is going to teach us all about what information is already public and will not be under this Act. I do recall when they were talking about the shares that our environment minister might have had in a lot of different environmental companies and companies to do with that . . .

MR. CHADI: I did not say that.

MR. FISCHER: It is recorded in *Hansard*.

That information would not even come under the freedom of information Act because that information is public knowledge now. I think that we're all going to learn a lot about what is and what isn't.

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

THE CHAIRMAN: The hon. Member for Edmonton-Roper is rising on a point of order. Would you care to share it with us, please?

Point of Order Allegations against Members

MR. CHADI: Yes. Standing Orders 23(h), (i), and (j). The minister of public works is alleging that I suggested in debate and perhaps maybe in second reading of Bill 19 that the Minister of Environmental Protection would have or might have or does have an interest in an environment company that works for the department. I said no such thing. I want it clearly stated not only for the record – but perhaps the minister could retract those comments. I said nothing of the sort. I know it was hard to hear. [interjections]

THE CHAIRMAN: Order. Order, Redwater.

Have you completed your point of order?

The hon. minister on the point of order.

MR. FISCHER: Yes, Mr. Chairman. I think I can clarify it quite well. I think I must have just said it a little bit wrong. He was talking about companies that dealt with the environment department, and that's a little different than what he said there, and I apologize for that. Still, my thoughts about it are that that is public information.

THE CHAIRMAN: I take your apology, and, if I understand you correctly, you are withdrawing your comments that may have offended.

MR. FISCHER: I am withdrawing.

THE CHAIRMAN: All right.

Then continue your comments, hon. minister.

Debate Continued

MR. FISCHER: Thank you. The other statement that came out a little bit loud and clear, that was not quite true, was the fact that I had announced at our Information Rights Week that our commissioner would be Bob Clark. The Member for Calgary-Buffalo had mentioned that, and certainly I had made no such announcement at that particular meeting. I don't know if the Member for Calgary-Buffalo was even there when I made my remarks, but he did come shortly afterwards. I just wanted to set the record straight on that.

I want to thank the Member for Calgary-Buffalo for giving us some of the amendments ahead of time that he had in mind so that we could review them with our department people and for giving us a chance to evaluate them before they came into the House tonight. I think that was very kind, and I thank you for that. I do say that with all of our amendments – and I look forward to the discussion here – certainly we have to believe that they're going to be improvements to the Act before we start making some big changes.

With that, I would just like to sit down and listen to some of the debate. I welcome the debate that's coming on.

8:10

THE CHAIRMAN: Before I recognize Calgary-Buffalo, I just want to remind hon. members that we'll continue to abide by the convention that only one member be standing and talking at a time.

The hon. Member for Calgary-Buffalo.

MR. DICKSON: Thanks very much, Mr. Chairman. I join debate at the committee stage on Bill 19 with a great deal of enthusiasm. My enthusiasm is piqued somewhat when I see the legal heavyweights on the government side congregating in the front row beside the minister. I expect that assures us that we're going to have a spirited debate and, hopefully, a thorough analysis of Bill 19 and ways that we can make it better, not for members of this Assembly, not for the front row of ministers, but for Albertans and Alberta taxpayers, because that ultimately is what freedom of information is all about.

Now, the minister has made a number of general observations, and it's interesting that in his general observations he talked about the great care that had been taken in putting together Bill 19. Mr. Chairman, I propose to demonstrate over however many hours we're sitting in this Chamber at this stage that if there's anything that characterizes the government's legislative initiative reflected in Bill 19, it frankly is a lack of care. I have to say that what we find is ample evidence of sloppiness, despite the fact that the government had the report from the all-party committee in late November of 1993. They introduced legislation in the spring of 1994 with all sorts of input from people in information commissioners' offices right across Canada. There were a number of people in the Department of Justice tasked specifically to prepare this Bill. What we find is that they didn't get it right in the spring of 1994, and we're now back to patch up. What's interesting is that in this patch-up attempt, we find that it's rife with a series of other errors, omissions, and things that are inconsistent with the thrust of freedom of information. They're inconsistent and contradictory to the unanimous recommendations from the Premier's all-party panel, created in August of 1993 and which, as I say, reported in late November of 1993.

It's interesting to me that the minister, on the one hand, speaks about British Columbia, the way their bureaucracy has grown to

combat freedom of information, and talked about a projected 75 people. When you count up people in the various departments, it increased to 100, I understood him to say. Well, Mr. Chairman, isn't that one more compelling reason why what we need in this province is a full-time commissioner, not a part-time commissioner?

Mr. Chairman, one of the things that we're going to speak a lot about in this Assembly is the question of whether this position can be a part-time position, but what I think is equally offensive – and something that I propose to address on behalf of my caucus in amendments that I'll be introducing later – is the fact that there cannot be, should not be people appointed to positions as important as the Information Commissioner without the benefit of an open competition. In effect, what this government is asking us for is a rubber stamp. What they're asking all of us to do is rubber-stamp a decision that's basically been made by the government behind closed doors, off on their own. The only kind of rubber stamp that I'm prepared to give the government is one that I had prepared when the Premier promised us in November 1993 that we were going to have an open competition for all the serious positions.

Mr. Chairman, I've picked up a stamp that I'm going to keep on my desk, and I want to use this every time a government Bill comes in that talks about a backroom appointment without the benefit of an open competition. My rubber stamp simply says: open competition. That's what the Premier promised. That's what Albertans are going to insist on. Every time the government brings in a bad Bill like Bill 19, I'm going to get out my open competition stamp, I'm going to plunk it right across the face of the Bill, and that's what I'm going to talk to my constituents about. I think that's what the Premier promised, and that's what Albertans want.

I'm hopeful yet that by the time we finish committee stage, the government is going to reconsider, that I'm going to be able to take my open competition stamp and put it away until another bad Bill surfaces. I'm hopeful that the government will recognize that on something as important as freedom of information it is essential that we advertise, that we allow people in any part of this province or even outside the province to apply, so we can tell Albertans that we're getting the very best man or woman for the position. This has nothing to do – this has been repeated numerous times – with the individual the government wishes to install in the position. It has to do with a principle, an absolutely key and important principle, and I'm disappointed that the government doesn't understand that.

Mr. Chairman, on February 23, 1995, I asked the Premier: when are we going to see the amendments on freedom of information, when are we going to see what the government is going to do? He told me:

I would ask the hon. Member for Calgary-Buffalo to be patient and wait for the amendments that will be coming forward relative to the Freedom of Information and Protection of Privacy Act. I think that he will be reasonably pleased, and we look forward to his support for those amendments.

Well, I'm happy to report that 13 of the specific amendments in Bill 19 represent a positive step forward. I'm happy to support them, and I'm happy to encourage all of my colleagues to support those amendments as well, but there are a number that we have problems with, and I want to focus specifically on those. I also want to say that while it was nice and I appreciate the comment from the hon. minister that he appreciated getting the amendments from me in advance, I think he only got part of my message.

What I've done, as I did with the original freedom of information Bill, is when the Bill was still in second reading, I took the amendments that I thought were required, I delivered them to the minister, and I said: I'd be pleased to sit down with you, sir, and review the amendments, explain why I think they're essential. This is exactly the same process that the Member for Rocky Mountain House and I used before he assumed his exalted position, and I think we were able to find some agreement. I think the Minister of Environmental Protection will agree that we were able to make some changes there, and we were able to do it in a way that economized on the time of the House.

What we've got now, Mr. Chairman, I regret to say is that I've given the minister all the amendments, and I haven't heard any response. Now, I guess I can only assume from that that he sees no merit in any of my amendments, and that will simply entail our going through them one by one. I'm pleased to do that, but it seems to me that we may be here for weeks – weeks – dealing with the nine substantive amendments that I prepared. I'd like to economize on that time. I say again to the hon. minister – I've offered to meet with him; I offered last week. I've offered to meet with the Member for Calgary-Shaw, who had had a keen involvement in freedom of information.

AN HON. MEMBER: On Thursday.

8:20

MR. DICKSON: Indeed it was on Thursday, and this is Monday, last time I looked, Mr. Chairman.

So we're into this in the House, and we're going to slog through the amendments, but I want to express my regret that when the government was given an opportunity to deal with what I submit are amendments tendered in good faith to try and economize on the time of the House, I met with deafening silence.

Mr. Chairman, there's a lot that could be said about the Bill, but I've said much of it, and I think we had 19 speakers to speak to Bill 19, some symbolism there I guess, at second reading. So I want to deal immediately with what Albertans, I think, want to see us deal with, and those are concrete, specific amendments.

I believe my first amendment has been circulated. I'd ask that my first amendment be distributed now, Mr. Chairman, and I'll pause for a moment while the amendment's being circulated.

THE CHAIRMAN: The Chair would remind hon. members that this amendment, the first one to come, amending after the clause in section 2(1)(f), we'll call A1. This is the one proposed by the hon. Member for Calgary-Buffalo. The Chair would also advise that the requisite signatures are here.

With that in mind, hon. member, I think you may now proceed.

MR. DICKSON: Thanks very much for assistance, Mr. Chairman. The amendment that's being distributed now provides – and I'll just read it into the record. Moved that Bill 19 be amended in section 2 by adding the following after clause (1)(f): section (g) by adding the following after clause (i)(xvi).

(xvii) a regional police commission, a policing committee or a municipal police commission as defined by the Police Act.

Now, Mr. Speaker, I just – or Mr. Chairman. I'm sorry. I always think of you in the loftier position.

Mr. Chairman, this amendment has been approved and initialed by Parliamentary Counsel.

Just to backtrack on the history of this a little bit, the all-party committee had, as I recall, four Conservative MLAs, and I see that a couple of them are here this evening. The Member for

Calgary-Fish Creek was one of the esteemed members of that panel. The Member for Calgary-Shaw was a member of that panel. Certainly those members and the Member for Peace River were all members of that panel. What I think they will all tell you is that it was never, never intended that police commissions would somehow operate outside the freedom of information Act. All that this amendment does is say that a municipal police commission and, in cases where they don't have one, a policing committee or a regional police commission in rural areas in conjunction with the RCMP where it provides a policing service – in those cases the police commission is subject to the Act.

Now, Bill 18 didn't address this in the spring of '94, and this is one of these major gaps. This is what I respectfully submit is a glaring omission. Despite the minister's boast that a great deal of care has gone into this, I'm astonished that they still haven't caught it and that a police commission, the Calgary Police Commission would operate somehow outside the freedom of information law. The Calgary board of education, the Catholic board of education would be subject to the Act. The city council, of course, the regional health authority are subject to the Act. The Library Board is subject to the Act. So why would we exempt the police commission?

In case members aren't clear in terms of how we get to that point, I'll just back up and say that I tried to be helpful on April 5, when I put several questions to this minister, the Minister of Public Works, Supply and Services. What I had said to him at that time was – and this is on page 1060:

Since the local police commissions, as all members know, play a key role in law enforcement, why is this government willing to allow those police commissions in Alberta to operate outside the freedom of information law?

The response was: "As I just explained, Mr. Speaker, there are only special circumstances when they can, and they are for good reasons." Well, Mr. Chairman, it's clear from that that the minister believes that the commissions at some times are subject to the Act and other times are not.

Well, let's go through and I'll try and explain why I believe, Mr. Chairman, that the Act does not apply. Firstly, what I do is encourage members to look at the original freedom of information Act, and if one looks at section 2(a) to (e) it's clear that freedom of information applies to a public body. Now, a public body is defined. You have a public body and then a local public body. Police commission is not specified in section (1)(p). Section 1(1)(p)(vi) does include "a local public body." We turn to the definition of a local public body, 1(1)(j), and we find clearly the Calgary Police Commission is not "an educational body." Clearly, it's not "a health care body," but perhaps one might think it is "a local government body." That's subsection (iii).

Then we look and we see that (i) to (xv) clearly don't apply. That brings us to (xvi). Now, this is more general, and this applies to a board or a committee or a commission, et cetera, if two conditions can be met. The first one is that the board or body members must be appointed by or under authority of a body referred to in the 15 preceding subsections. Well, I submit that if one looks at (i), municipality, that would appear to be the most appropriate one, and indeed I suggest that the first test is met. But the second test in (xvi) is that the board or body must be created or owned by a municipality or one of the other 14 bodies enumerated above. All of this comes down, then, to this single element: if it is met, then police commissions are included; if it's not met, then the police commission is not included.

I refer members to the Police Act, part 3, police services and commissions. That's sections 21 to 33. Section 25 provides for

the establishment of a regional police commission. It says, "shall establish" where that applies. Section 27 uses the words "shall establish . . . a municipal police commission." Section 28 says "shall establish a municipal police commission." Section 29 of the Police Act sets out the budget and planning responsibilities. Section 31 defines the commission responsibilities.

So what we've got, Mr. Chairman, is the police commission existing by virtue of the Police Act. It derives its authority from that specific statute. So the test is not met in the freedom of information Act. As a result, then, because it's not a public body, it's not a local public body, it's not a local government body, the Police Commission falls outside of the FOI Act, and because of that we have a serious, serious gap.

The minister tells us that he's been very careful and that he thinks they've done a great job. How could the minister overlook police commissions? Now, this is at a time when Albertans are demanding more accountability to make their communities safer. They want more accountability in terms of ensuring that their communities are safer. Surely we would start with the local police commission. Yet here the government blithely says: no, no, police commissions don't have to be subject to freedom of information. Well, my constituents want to know what the police commission is doing.

I should point out that there are ample exemptions already for police commissions. We've got all of these exemptions in the law enforcement section, so it's not like the names of informers or secret investigations or incomplete investigations are going to be leaked to the criminal element in our communities. What we're talking about is accountability and responsibility, and I'm astonished that the government hasn't dealt with that, Mr. Chairman.

[Mr. Clegg in the Chair]

Now, I'm hopeful that the minister's going to get up and tell me that my interpretation is wrong, that he's got a legal opinion, so I don't have to rely on my homespun reasoning. I'm hopeful he's going to have one of the legal beagles in the Department of Justice come in and tell me that I've missed something, but until that happens I have to tell him that the government has blown it on one very key element of the freedom of information Act.

8:30

It's another reason, Mr. Chairman, why I have to get out my stamp again, the stamp that reminds me that we simply need open competition, because when we trust the government and leave it to them to make a decision on their own, what we find is that they simply don't get it right. I guess that's our job, and I'm hopeful that the minister is going to go back and have a look at it.

I expect that maybe some of my colleagues also are equally interested in terms of why the police commission would not be subject to the freedom of information Act. I think I've made the observations that I particularly wanted to raise on this first amendment. I would just say that we see this government, we hear this government all the time talking tough about crime and this government is going to do all kinds of things about getting tough on crime in our community. Yet what we see is that they can't get it right on the most basic element of trying to make the police commission not only more accountable but ensuring that Albertans and people in the communities serviced by those police commissions can find out why the police commission isn't dealing with a problem. In my case it may be . . . [Mr. Dickson's speaking time expired] Well, I have a number of problems in my constituency, and I'll catch up with those later, Mr. Chairman.

Thanks very much.

THE DEPUTY CHAIRMAN: The hon. Member for Calgary-Shaw.

MR. HAVELOCK: Yes. Thank you very much. Just a couple of brief introductory comments. One, the Member for Calgary-Buffalo mentioned that he had offered to meet with me and discuss these amendments on Thursday. I wasn't in the House on Thursday; the record will show that. However, just to clarify, we did discuss it on I believe Wednesday, and at that time I didn't have the amendments, and I indicated that when I received the amendments, I'd be happy to discuss them. I didn't, Mr. Chairman, receive the amendments until today, and certainly I've been a little busy, as the member has been preoccupied, and this is the first I've had a chance to really address them, so I wanted to clarify that.

A couple of other points were made, in particular with respect to the commissioner. It was suggested by the Member for Calgary-Buffalo . . .

MR. SAPERS: Are you speaking to the amendment, Jon?

MR. HAVELOCK: I'm addressing the comments made during the discussion.

. . . that the job is too big for one individual to handle. Mr. Chairman, we've indicated that the Act can be reviewed at any time if problems arise.

MR. WHITE: Point of order, Mr. Chairman.

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Mayfield.

Point of Order Relevance

MR. WHITE: I believe there is an amendment on the floor, which means that the member opposite must speak to the amendment, which is specific to the police commissions. We would be happy to hear him another time on the former matter, and I'm sure we shall.

THE DEPUTY CHAIRMAN: On the point of order, hon. Member for Calgary-Shaw.

MR. HAVELOCK: Well, I'll certainly abide by your wisdom, but all I was attempting to do was respond to the comments raised by the Member for Calgary-Buffalo. If I'm straying and not addressing the amendment, I'd be happy to concentrate on that.

THE DEPUTY CHAIRMAN: Well, hon. Member for Calgary-Shaw, we are on one specific amendment to Bill 19, and I'll be listening with a lot of intensity to make sure that you do stay with the amendment.

The hon. Member for Calgary-Shaw.

Debate Continued

MR. HAVELOCK: Well, thank you. I was actually intending to speak for 20 minutes.

In any event, Mr. Chairman, we have had the Justice department and our legal experts actually examine this amendment, and the opinion that has been given to us is that the police commissions do meet the conditions of section 1(1)(i)(xvi), if I'm not mistaken, of our Act. I hope I have quoted the section accurately;

I might not have. Police commissions are created by a local government body, and all members are appointed by that local government body. From our perspective local municipalities will become subject to the Act in five years. Consequently, police commissions will be encompassed and subject to the Act at that point in time.

During our hearings throughout the province it was made quite clear to us by a number of municipalities that actually they felt the Act should not apply to them at all. In fact, they felt that the information was readily available and could be disclosed. Contrary to that, we heard a number of citizens come forward and indicate that that was not the case, that they had difficulty getting information. As a result of that, the panel determined that we did want to have local municipalities subject to the Act. However, the municipalities, one, had not been advised when the initial working paper was sent out that they may be made subject to the Act. As a consequence we felt it was fair to give them some time to, one, assess the Act and the impact. Secondly, they needed to look at the budget ramifications of doing that. Quite clearly, we felt it was appropriate to give them some time. Essentially what we're doing is saying that five years down the road the police commissions will be captured and be subject to the Act.

For that reason, Mr. Chairman, I feel that this particular amendment should be rejected.

MR. DICKSON: Mr. Chairman, I appreciate the comments of the Member for Calgary-Shaw. I want to say, firstly, that I had never intended to suggest that he had had the amendments since last week. I gave the amendments to the minister, and I think the minister will acknowledge he got them last week. I thought it was the minister who had the primary responsibility, and I was hoping that he would share those with the Member for Calgary-Shaw before I saw him and gave him the amendments.

I just want to be clear that I'm very surprised at what the hon. Member for Calgary-Shaw has said. If in fact he looks at the description – and I think he's referring to section 1(1)(i)(xvi) – there are two conditions to be met. I'm prepared to acknowledge that the members of the Calgary Police Commission, for example, are appointed under the authority of the city of Calgary. I mean, I accept that. But the second thing is that the police commission would have to be "created or owned" by the city of Calgary. I don't know where the member is getting his legal advice in the Department of Justice. I hope that's not so. There's ample authority that is established that the city of Calgary is not in the typical position of an employer and therefore has vicarious liability for the misdeeds of a police officer. Anybody who's ever tried to sue a city because a policeman has assaulted somebody very quickly discovers that the status of police comes by virtue of the Police Act, hon. Member for Calgary-Shaw. Look at the Police Act. It's the Police Act which requires the creation of a police commission, so it just makes no sense. The police commission is not there because the city of Calgary decides to create it. They are bound by provincial statute to create a police commission. That's why it's there. So the member's argument, frankly, doesn't hold water.

Thanks. I think I have some other colleagues that are anxious to speak to this as well.

THE DEPUTY CHAIRMAN: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you very much, Mr. Chairman. I'd like to begin tonight's debate on this amendment with the proposition that a police commission should be subject to the freedom of

information legislation. I was gratified that the Member for Calgary-Shaw did not disagree with that proposition. He says instead, based on a very complicated legal, technical argument, that the police commission may be described in the catchall section of the freedom of information Act. If that be the case, why wouldn't we just clear the mystery up once and for all tonight by voting in favour of this amendment and putting police commissions in, unless the hon. minister who introduced this particular Bill does not believe that police commissions should be subject to the scrutiny of the freedom of information Act? If he doesn't believe that, then he should stand up and say that so that all members of this Assembly will know that to be his position.

If his position, Mr. Chairman, is that the police commissions should be subject to a request for information under the freedom of information Act, do not hide behind the catchall phrase that the Member for Calgary-Shaw has utilized. With respect to the Member for Calgary-Shaw, who is a lawyer, notwithstanding that and with respect to his legal expertise, I fail to see how he can read the section as it is presented in the Act and conclude that a police commission is caught in that catchall phrase. The reason for that is the very, very overwhelming and highly persuasive argument of the Member for Calgary-Buffalo that points out that to fall within that catchall phrase, you have to comply with two conditions. The first is you have to have a proprietary right, and the second is that the members have to be appointed pursuant to that proprietary right. The members of the police commission are appointed pursuant to the Police Act, and if you look down the list in the freedom of information legislation, you will see that the Police Act is not listed in any of those boards or tribunals for which freedom of information is guaranteed.

8:40

Now, I want to say to you, Mr. Chairman, that we saw fit in the original Bill – that's original Bill, chapter F-18.5, the Freedom of Information and Protection of Privacy Act – to guarantee that you would have freedom of information from a drainage board under the Drainage Districts Act, but the government didn't see fit to think that there should be freedom of information from a police commission. We saw fit to guarantee Albertans the right to get information from a board under the Irrigation Act, but the government didn't see fit to have information made available from a police commission. We saw fit to allow the disclosure of information from a housing authority under the Alberta Mortgage and Housing Corporation Act – of course, that name has now changed – but we didn't see fit to give freedom of information opportunity to the activities of a police commissioner.

I want to remind the hon. minister who introduced this Bill that in section 4 of his Bill is an outright duplication and adaptation of an opposition member's amendment brought forward in good faith in 1994. There for the taking, there for the lifting, there for the plucking, and that opportunity was lost. Now we redebate it and rehash it again. Please, Mr. Minister, do not allow this opportunity to go past. Either stand up and say that police commissions are not intended to be subject to freedom of information or stand up and acknowledge that it is too important a board or body to be left in a catchall, grab bag, bottom-of-the-line, pick-up-the-rest type of clause, and let's put it in as the hon. member has suggested.

If, Mr. Minister, you do not feel comfortable grabbing the amendment and voting on it today, stand up and ask that the debate on this amendment be adjourned and give your department another couple of days to think about this. With respect to the many learned legal scholars in your department that have reviewed this piece of legislation, I cannot believe that their

interpretation of this subsection 16 is the right one. On top of that, it seems to me that with all of the specific interpretations that are listed there, the Irrigation Act, the Drainage Districts Act, the Alberta housing Act, the Parks Towns Act – the municipality of Crownest Pass is specifically identified there; the County Act is identified there specifically. Surely in that long and almost exhaustive list of definitions, Mr. Minister, it would be appropriate to put the police commission in there, unless we have to debate today fundamentally as to whether people have the right to inquire about information from a police commissioner.

The government has made lofty statements. The hon. Member for Calgary-Montrose has made lofty statements in this Legislative Assembly about law and order and how important it is to have law and order and we need law and order. Well, one of the best ways to get law and order is to make a police commission subject to scrutiny under the freedom of information Act. That is what Albertans want.

When you look at some of the other items that have been listed in this amendment, Mr. Chairman, and you see that police commissions have been left out, you have to say that they've been left out either intentionally, in which case we have a very serious issue to debate here tonight, or you have to say that they've been left out inadvertently. If they've been left out inadvertently, Mr. Minister, this is a matter of complex legal drafting. It's no discredit to you or your department to stand up and grab the amendment that's going by now, none whatsoever. But, Mr. Minister, I say to you that it will be a discredit to your department if you turn your back on this amendment this year, let it pass, let it slide, and then you have to come hot-shoeing it in here next year with this kind of an amendment, having hon. members from both sides of the Legislative Assembly wondering about your warranty that this was the best Act ever and that these amendments make it better.

I do not understand and I do not want to second-guess your department on how it was that you missed the police commission. I heard the hon. Member for Calgary-Shaw, earlier tonight in fact, speak in favour of freedom of information from police commissions, and I want to say that he spoke in favour of it apparently by justifying the location of it in another grab bag section of this legislation. Well, let's not deal with it on a grab bag basis. Let's come right out and say that the government of the province of Alberta supports freedom of information and supports freedom of information from police commissions. If that be your attitude, if that is the way you feel about it, then the easy answer is to vote yes in a moment for this amendment A1, this amendment which would add a police commission to the long list of public bodies as defined in the Act and from which, under the heading of "local government body," once you prescribe and follow the rules, information can be made available.

That, Mr. Chairman, concludes my comments on this very good amendment, except I want to say that it is an honour to stand in this Legislative Assembly and to speak to an amendment that has been as carefully and thoughtfully drafted as this amendment, filed and presented by the hon. Member for Calgary-Buffalo. I will now sit down and allow other members on both sides of this legislation to stand up, to get on the record and say that they believe in freedom of information, that they believe that it exists for information from police commissions, and to vote and to talk and to debate in support of this amendment.

Thank you, Mr. Chairman.

MR. FISCHER: Mr. Chairman, I just want to set the record straight. Yes, we want to include the police in this, and we feel

strongly that they are already in there under the municipal governments. Now, I realize that we have had a difference of opinion or interpretation. I listened to the homespun interpretation over there. We home-spin some of ours, I suppose, as well, but we have put a lot of thought into this particular one. I just wanted to set it straight that we believe strongly that they are already in there.

Now, I want to just mention one other thing, and you alluded to it. Sometimes we don't have everything absolutely perfect in this Act. We didn't have everything perfect last time in this Act, and no other province has put it together in one go either. I want you to understand that. Because of that, we have said that that Act can be reviewed, and it's going to be reviewed in three years. I do feel that because of the municipal governments' rejecting so strongly so much of what we were trying to do, including them in that, it is only fair to give them a chance to get ready. That was the reason for the five years, and that was what came out of the public hearings.

MR. DICKSON: Mr. Chairman, I appreciate the comments from the hon. minister. I've always found that a little humility goes a long way, and I appreciate the minister's acknowledgement that they're still trying to get the freedom of information Act right. If, in fact, as he says, he agrees that he wants police commissions to be subject to the Act, then will he please make available to us the legal opinion? Will he give us a written legal opinion, share that with us, so that we can have the same measure of comfort that he has? You have at least two members in opposition who are reasonably confident that it is just not so, and if he'll provide us with that legal opinion, then we can review that very quickly. Presumably he has it in his file right now. We can resolve this very quickly.

I appreciate his acknowledgement that the police commission must be included, but I remain of the view that it is not now.

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Glenora.

MR. SAPERS: Thank you. I am speaking in favour of the amendment, Mr. Chairman. This amendment I think is necessary to make the freedom of information Bill a little bit better. It'll still be far from perfect. It still won't reflect the spirit or the tone of the all-party committee which made a unanimous recommendation to the government, and the government chose to reject large parts of it.

Mr. Chairman, I'll note that the minister just stood and said that his understanding is that many municipalities at the public hearings made the comment that they wanted to be exempt entirely from the freedom of information Bill. I can tell you from my recollection of being at the hearings – and I don't recall that the minister was – that what the municipalities were in fact saying is that they operate with a degree of transparency and openness which should be the envy of this provincial government.

8:50

The reason why they felt that they may not need to be subjected to this Bill is because it was a little bit redundant, that in fact the provincial government could take a lesson from the way most municipal governments operate. It would be a little bit inconsistent, I think, with what the minister was suggesting, so he may want to review the notes. There are extensive meeting notes and session notes from all of the public hearings, Mr. Minister, and

you may want to review those and get a better sense of what the municipalities brought to those hearings.

Secondly, it occurs to me that the purpose of police commissions, Mr. Chairman, is to introduce a degree of control and accountability for the operation of local police forces, free of political interference. One of the primary purposes you have a police commission looking over the shoulder of a municipal police department is to make sure that the politicians don't interfere with the operations of the police but that in fact the police are still accountable to the community and to the public. Now, that by itself, that being one of the primary reasons why you'd set up a police commission, sort of lays waste to the interpretation that the hon. Member for Calgary-Shaw was trying to bring to this whole debate. As a matter of fact, if subsection 16 were the operative section, there's a whole host of other things which wouldn't have to be included in the Bill, but of course they are. The truth is that police commissions are in fact a creature of the provincial government insofar as they are created by the Police Act. They are in a position on municipal structures, and as such, they should be subject to this freedom of information Bill.

Mr. Minister, I'd like to know and perhaps you can tell us if there has been a single police commission anywhere in the province that has said, "We're not prepared to be subject to freedom of information legislation." Certainly that has not been brought to my attention. If it's been brought to your attention, I'd like you to share that with us, and I'd like you to name the police commission. I think the people of Alberta and the people in that municipality would be very interested in learning that their police commission wants to operate with a degree of secrecy that the people of the province aren't comfortable with.

Now, the Member for Calgary-Shaw also mentioned that local governments will be subject to the Act within five years. Well, if that's the case, why wait? If all this is a matter of the time frame on police commissions, if it's only a matter of five years, then what are we trying to hide or protect? It seems to me that the people of Alberta deserve their police commissions to be open and accountable now, much as they want all government operations to be open and accountable. I don't understand the argument at all of saying that, well, other municipal operations will wait five years, so police commissions can wait five years as well.

It certainly can't be because we're trying to protect secrets to do with criminal justice. The last time I counted, there were 12 or 14 separate, enumerated exemptions for law enforcement purposes in the freedom of information Bill, over a dozen separate exemptions that already protect the integrity of the law enforcement process, the criminal justice process. There is absolutely nothing that a police commission would have to disclose that would jeopardize any ongoing investigation or any operations of the courts or any other part of the criminal justice system.

This Bill is supposed to make this government and all parts of this government and all creatures of this government accountable to the people, to the taxpayers. There is no excuse at all for excluding police commissions. I would certainly feel much better about the intentions of this government and have a lot more faith in the integrity of this legislation if the government were willing to admit that this was a gap in the drafting of the legislation, accept with grace this amendment, which was provided to the government a week in advance of this debate, and acknowledge that this will improve the Bill. Instead, what we're getting is some kind of legal interpretation that seems to sort of justify the government position and the government's reluctance to accept an opposition amendment.

I can recall, Mr. Chairman, standing at my desk at this spot in the Legislature when we first debated the freedom of information Bill and speaking for over two hours, making I believe it was 18 separate amendments to the freedom of information Bill, and having the Member for Rocky Mountain House, who's now the Minister of Environmental Protection, so to speak, sneer and comment that one after another of these amendments weren't necessary. I recall that on the one amendment that was accepted by the government, he said: well, we'll accept this amendment because it doesn't really change anything anyway. Well, that kind of arrogance breeds bad lawmaking and bad decisions in this Legislature, and I would suggest that there is an opportunity now for the government to do the right thing, to admit that there was in fact a gap and that that gap can be filled at least in part by this amendment.

Now, we want to acknowledge that the government has said that they want police commissions to be subject to freedom of information and privacy legislation. Well, that's great. We've also acknowledged that the government has already said that there is an interpretation that you could possibly twist to fit police commissions being subject to it. Well, that's okay too. Then we also have to acknowledge that the government has said that this will all transpire within five years anyway.

Well, if they're in favour, Mr. Chairman, and if they think that there's an interpretation that maybe could have, sort of, might have applied and if they think that in any case it might happen in five years, then why not make it manifestly clear? Why not make it absolutely crystal clear to all members of this Assembly and all Albertans and all members of police commissions that they are in fact subject to freedom of information legislation, that they will be accountable to the people of the province for their activities? Remember, it's accountable in a way that is free of political interference. It's accountable in a way so we know that there is public involvement and public scrutiny on the operations of police services. The police themselves demand no less than that kind of accountability and that kind of scrutiny.

I think we can support the efforts of police commissions. We can support the efforts of the men and the women on the front lines in the criminal justice system, those police officers who are doing their damndest to uphold the laws in this province, and they want to be accountable. They want to be able to hold their heads up high and say, "What we do we do in the best interests of all Albertans," and the same for the police commissions. This amendment is really a very small, small deed to accomplish, to help towards that end, to help rebuild faith and help rekindle the belief that people have in law and order, in the criminal justice process.

I cannot accept the arguments put forward by Calgary-Shaw. I cannot accept the defence against this kind of transparency in police commissions as offered by the Minister of Public Works, Supply and Services. In fact I would have to insist that this amendment be accepted by the Legislature not only because it will make the Bill a better Bill, but it is simply the right thing to do, Mr. Chairman.

Thank you.

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

MRS. ABDURAHMAN: Thank you, Mr. Chairman. I rise to speak in favour of this amendment. I want to say at the outset that one of things that has appalled me since I've sat in this

Legislative Assembly is the arrogance that's demonstrated by the government. I hear continually that the Official Opposition is negative, negative, negative. Yet when we bring meaningful amendments forward to make legislation better for Albertans, all we see is a lack of recognition that it would strengthen legislation, and this in essence is what this amendment's doing.

How the government of Alberta could have left the police commissions out – it's an omission, and I believe, Mr. Chairman, that they just won't face up to the fact that it was an oversight on their part. Now to suggest that it's taken care of within the freedom of information legislation – I'm certainly not a lawyer, but I would suggest that they're stretching it when they would suggest that that's the interpretation. Like my colleague from Calgary-Buffalo, let's put us out of our uncertainty. If the government has a legal opinion that shows that indeed the Official Opposition is wrong, let's see that legal interpretation. When you look at the fact that through the Police Act police commissions are a creature of provincial legislation, I would suggest that there indeed has been an omission by this government.

Now, I would go as far, Mr. Chairman, as to disagree to some degree with my colleague from Edmonton-Glenora. That is about openness and accountability at the municipal government level. That's why I firmly believe that the police commissions should be included in this amendment at this point in time. I look back over the past two decades, and if there was anything that I'd hear from Albertans, it was that there's too much government behind closed doors, be it at the municipal level or at the provincial level or the federal level.

9:00

Now we're starting to see a slight improvement in some municipalities where committee of the whole is being used to a lesser degree, but municipalities are still creating policies and putting too much business behind closed doors. So I'd go as far as to say, Mr. Chairman, that indeed I question municipalities, that exclusion for five years. Indeed, what Albertans and Canadians are wanting is openness and accountability, and any elected official that says that you can't have that openness and accountability while ensuring that the financial security of Albertans is maintained and confidentiality when it comes to personnel issues, using that as excuses – I don't buy it, quite frankly, because there's no reason the day-to-day business that should be accountable to all Albertans should not be done in an open forum.

Likewise, I hear continually that people want their law enforcement people, be it the RCMP or municipal police forces, to be above reproach. One way that we have come a long way at the local level – and I compliment the governments in the past for putting police commissions in place through the Police Act. This is one area where we've had some accountability to ensure the integrity of our law enforcement people. Mr. Chairman, I would suggest that that full accountability is still not there. I still have constituents coming to me as the MLA for Clover Bar-Fort Saskatchewan asking some very interesting questions when it comes to law enforcement. I indeed believe that we must ensure that police commissions are not excluded at this point in time through this legislation.

Mr. Chairman, we see time and time again before this Assembly poor legislation. Just the other night we passed third reading of Bill 15, and now in actual fact it's been proclaimed. Poor, poor legislation where government had to bring four amendments in themselves. I brought four in. We could probably have brought in another eight to try and strengthen it. They accepted one Official Opposition member's amendment, which just about

shocked me. It nearly made me speechless to believe that they would even accept an amendment from the Official Opposition, acknowledging that they could strengthen this legislation.

What I'm hearing again tonight is acknowledgement across the way from the government of Alberta that indeed police commissions should be within this freedom of information legislation. They're not quite sure, but they think it's there. Well, why don't you fess up to it and support this sound amendment? You know, put your money where your mouth is. You were around this province, and you heard what Albertans were saying: be open; be accountable.

Now, I would challenge the Member for Calgary-Shaw, who I believe professionally is a lawyer: you should know the answer. Surely it's black and white. Support this amendment. If it isn't black and white, let's see what the government's legal opinion is. Then we'll look at our legal opinions over here and let Albertans decide which is the superior and indeed would allow police commissions to be included under the freedom of information Act.

So with those comments, Mr. Chairman, I'd remind this government once again that Albertans are looking for accountability from their elected officials. They're looking for an openness that is sadly lacking. They don't want a smoke screen, quite frankly. So let's do the right thing.

Thank you, Mr. Chairman.

THE DEPUTY CHAIRMAN: I have to apologize to the hon. Member for Calgary-Shaw. I never saw you standing, because I like to take turns from one side to the other if there is somebody standing. I couldn't see by this good-looking Clerk Assistant to see you last time.

The hon. Member for Calgary-Shaw.

MR. HAVELOCK: Well, thank you. It could be that I'm so far away from you too.

Mr. Chairman, I'd like to refer to the Police Act, section 28(1), and just quote from it and then further the argument with respect to whether the police commission is a provincial or a municipal creature, for lack of a better term. Section 28(1) states:

- A municipality . . . that
- (a) has a municipal police service, or
 - (b) has the approval of the Minister to establish a municipal police service,
- shall establish a municipal police commission.

It goes on to state in 28(2):

- The council shall, subject to the regulations,
- (a) prescribe the rules governing the operations of the municipal police commission, and
 - (b) appoint the members of the municipal police commission.

Now, not having practised law for a good number of years despite the fact I have retained my professional accreditation, upon reading this I interpret the legislation as being enabling. In other words, it provides the opportunity and in some cases requires the municipality to establish a police commission. What works for me when I'm trying to determine whether or not an organization or a body is a provincial creature or a municipal one is that I look at, for example, lines of reporting. I look at accountability. I look at funding. When I look at those types of issues, Mr. Chairman, then quite clearly this to me is a municipal creature, and as a consequence it is caught, if you would refer to the freedom of information Act, under section 1(1)(i)(xvi). It clearly is

any board, committee, commission, panel, agency or corporation that is created or owned by a body referred to in subclauses (i) to (xv).

So it is created by the municipal organization. I don't buy for one moment the argument that this is a provincial body and in some way this provision doesn't capture it.

I'd like to also refer to the discussion regarding municipalities being subject to this not immediately but rather after a five-year period. The hon. member who just addressed this issue was on the panel, and he is quite aware that we received a number of representations from municipalities indicating that they did not wish to be caught by the legislation at this point in time. A couple of reasons why: one, again they had not been made a part of the process from day one. The panel admitted that that was perhaps a shortfall or something that was missing in the original formation of the panel. Nevertheless, we did recognize that problem, and as a consequence we decided to exclude them for a five-year period. That was the all-party panel's recommendation.

Quite frankly, Mr. Chairman, I think my interpretation of the provisions is accurate. This is a municipal body. If municipalities were to be excluded – and the municipalities did ask to be excluded for a five-year period – I quite frankly don't understand what the kerfuffle is all about. No one in here has suggested that police commissions should not be made subject to this. No one has suggested library boards shouldn't be made subject to this or perhaps the Calgary Region Arts Foundation. Which particular commissions or bodies do the hon. members on the other side wish to cherry pick and make subject to this legislation? Who's going to be next? We made the commitment to the municipalities that we would not make them subject to this legislation for a five-year period.

On that I'd like to conclude. Perhaps the hon. members would go back and try and remember the discussions we had with the municipalities and on this particular issue. I think we came to the correct answer on this.

Thank you.

THE DEPUTY CHAIRMAN: The hon. Member for Calgary-Buffalo.

MR. DICKSON: Thanks, Mr. Chairman. Well, three quick points. The first one is that we decided not to do what Ontario did, which is have one statute for the municipal level of government and a second statute, a separate one, dealing with the provincial government. We decided on that all-party panel – and the government accepted our recommendation – that we would have a single statute. If in that single statute you're going to deal with the municipal level, why on earth would you not want to make it as complete as possible? Why this sloppiness in terms of saying: "Well, because the portion dealing with municipalities doesn't come into force right away, it doesn't matter whether that's kind of sloppily done. It doesn't matter whether we've got some things properly covered and some not. We'll repair it down the road."

We're being paid, hon. member, a handsome salary – not as handsome as all of us may like – to come here and make the best laws we can, not to simply do an inadequate or crummy job just so we can move on to the next Bill. We're here to make the best legislation we can, and I cannot understand this notion that somehow because the Police Act says that the municipalities shall create it, that means the municipality owns it.

9:10

I appreciate that the Member for Calgary-Shaw hasn't practised for a while. I didn't bring my brief with me, but I can tell the hon. Member for Calgary-Shaw that there is a substantial body of jurisprudence that says that if a policeman commits some kind of

tortious act or wrong, you can't automatically sue the municipality under the normal responsibility – respondeat superior, I think it's called – as you can any other municipal public servant. You have to treat it specifically differently because it's a provincial statute, the Police Act, that creates the police commission, and it's a separate kind of accountability altogether.

As the Member for Fort McMurray said, why would you split hairs like this? The hon. minister has come forward and said: we agree; the police commissions should be subject. That's what I heard him say, and I take that at face value. So why don't we accept the amendment, spell it out? Then there's absolutely no question about it. We can get on to talk about the other eight amendments.

The other thing I'd want to mention, Mr. Chairman, is that when we were in Lethbridge on the all-party panel, we heard a number of interesting submissions. One of the ones in particular was from a Stu Langland, president of the Lethbridge Progressive Conservative Association. What I thought was particularly interesting in Mr. Langland's presentation, which was thoughtful and very ably presented – he stressed two things. The first one was that it was important that the government realize how low politicians and governments are in terms of public credibility, how essential a strong freedom of information law was to start to restore some of that credibility that elected people had lost. The second thing Mr. Langland said so persuasively: he talked about the importance of seeing governments deal aggressively with crime in our communities. He wanted a higher level of accountability when it came to the actions of police commissions and police forces.

Why, when Mr. Langland argued so persuasively, wouldn't the government simply say, "Here we can accept this amendment offered in good faith by the opposition, and we can be absolutely clear," instead of trying to hide the police commission in the sort of residual, catchall clause at the end? This, in my respectful submission, doesn't apply here anyway. Why don't we just say it? The minister has said that he doesn't agree with the principle, so let's accept the few words offered in the amendment. If it's in the Bill, the Bill is clear, Mr. Langland in Lethbridge, the next time he goes to a Lethbridge Progressive Conservative Association meeting, can say proudly that the government listened to him, listened to his concerns, and made it abundantly clear that police commissions in this province will be subject to the Act.

Mr. Langland went on and talked specifically about his concern that the government is not in the business of protecting criminals. He wanted to see the government take an aggressive approach in terms of law enforcement. How do we know that the government takes an aggressive stand on law enforcement if you and I as taxpayers can't find out why the government isn't laying charges in some case, why they're not prosecuting violent offenders? This is the window to be able to allow Albertans to access that kind of information.

With that, I sit down and let other members speak, Mr. Chairman.

THE DEPUTY CHAIRMAN: The hon. Minister of Justice.

MR. EVANS: Thanks very much, Mr. Chairman. I want to get into this discussion just very briefly and to indicate that I do have and the government has a different interpretation of this matter than the hon. Member for Calgary-Buffalo. It is not the intention of the government to exclude police commissions, police committees, or regional police commissions. However, consistent with the report of the committee with respect to municipal authorities

and those committees, boards, commissions, et cetera, et cetera, created under those municipal authorities, it is not the intention at this point in time to proclaim the Act with respect to local public bodies. The intention is to proclaim those sections in due course and in due time, consistent with the recommendations of the committee.

However, to argue the Member for Calgary-Buffalo's point that these commissions are not constituted under a local government body is not our position. Our position is that they are constituted. They are constituted, as the hon. Member for Calgary-Shaw has stated, by bylaw or by some proactive position that is taken at the local level. The Police Act is enabling, giving those municipalities the authority to so constitute those commissions or committees. It is in fact the municipality that does that. We do not, Mr. Chairman, want to make an exception for police commissions and committees, because the next thing we'll be doing is making other exceptions for other named committees, commissions, panels, agencies, corporations that are created by municipalities. That's why we have the definition in section 1(1)(i)(xvi): to exclude the necessity of specifics and to have an overall provision.

Once this Act is proclaimed to be effective with respect to a "local public body" as defined in (j), then police commissions, police committees will be incorporated. But until such time, we are taking the position that we are being totally consistent with respect to all municipal bodies and those boards and committees, as we've stated in this provision, that operate and are created pursuant to those municipalities.

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Glenora.

MR. SAPERS: Thank you, Mr. Chairman. I need some clarification from the Member for Calgary-Shaw in speaking to his lawyerly interpretation of some sections of the Police Act. When I review sections 22 and 24, which I believe were the sections that the member referred to, I see that they are referring in fact to responsibilities for policing services as outlined in sections 4(1) and (2), which primarily have bearing on municipalities who enter into agreements with the provincial solicitor general or minister responsible regarding provincial police services or regional police services. I guess to simplify for the hon. member, who admitted he hasn't been doing a lot of this practice lately, that would be like the RCMP as opposed to municipalities which establish their own police departments.

I believe the hon. member should have been properly referring to section 27, where municipal police services are defined as those where a municipality has assumed responsibility for the establishment of a municipal police department. I note that that section in my version of the Police Act – and maybe the hon. Member for Calgary-Shaw has a different version of the Police Act – uses the word "shall." Now, I didn't go to law school, but I do recall what my English language teacher taught me in high school: the difference between the words "shall" and "may." I don't know what they taught the member in law school, but I understand that "shall" is pretty directive. The way I read this Act, it says that a municipality "shall" create one. It doesn't say it may; it doesn't just say it enables it to. It says in fact that it must.

In fact, that interpretation is entirely consistent with the submission of the Alberta Association of Chiefs of Police. I well recall, Mr. Chairman, that the Member for Calgary-Shaw was sitting with me up on the platform when the representatives of the Alberta Association of Chiefs of Police made their presentation to

the all-party panel and in fact made reference to their analysis of access to information. I know the Member for Calgary-Shaw listened intently, as he always did. In fact, he may have even been chairing that particular session; I can't recall that. I do recall that after hearing the very informed brief from the representative from the Alberta Association of Chiefs of Police, there were some questions, some questions in fact that I asked at that time.

9:20

THE DEPUTY CHAIRMAN: The hon. Member for Calgary-Shaw on a point of order.

Point of Order Clarification

MR. HAVELOCK: Just a point of clarification. Just to clear up any confusion for the hon. member, I was quoting section 28(1) and (2). I was not quoting sections 22 or 24. If you listened a little more attentively, you'd get it right.

MR. SAPERS: Thank you, Mr. Chairman, and thank you, hon. member. I'm relieved to know that your legal training wasn't for naught entirely, that you were able to get the right section of the Act. There was some confusion over here because you made the suggestion that in fact it wasn't a prescriptive piece of legislation. Really I could only presume that the hon. member had gotten the number wrong because of his interpretation. So I guess it wasn't his reading of the numbers that I question; it's now his legal interpretation. I'd ask again what it was particularly that he learned in law school that I didn't learn in English lit.

Debate Continued

MR. SAPERS: Besides that, I would like to go back, Mr. Chairman, to the submission of the Alberta Association of Chiefs of Police, where I believe they are consistent with the interpretation of the legislation that's being put forward by this side of the House and quite contradictory to the interpretation just offered by the Minister of Justice. So I think he should pay particular attention at this point as well, because it is the opinion of the Alberta Association of Chiefs of Police that the police are already subject to several layers of accountability. I quote in part from their submission, where it says:

Notwithstanding these preliminary observations, it is important to emphasize that the Edmonton Police Service does not oppose the principles set out in [the] Bill . . . After all, in its function as a law enforcement agency, the Service is already accountable to . . .

And this is the important part, ministers.

. . . and supervised by several bodies. Reference may be made to the Police Commission, the Law Enforcement Review Board, Ministry of Justice, as well as the criminal and civil courts.

Now, later on in their brief they conclude in part, Mr. Chairman, that because of these layers of accountability, the police services themselves cannot be without exemption directly subject to the provisions of the Act.

I do recall that during the question and answer period after the formal submission, I personally asked the representative whether or not they thought the police were in fact somehow operating above the freedom of information and privacy Bill as being proposed. They said: no; absolutely not, because other agencies which supervise and are accountable for the actions of the police in fact, we would suggest, would be subject to the provisions of this Act. I can only extract from that answer that the presenter was referring to the police commission at least in part.

So it's very clear from the submissions that we heard, from our legal interpretation, from in fact the way the provincial Police Act is constructed that police commissions would need to be expressly named, should be expressly named. In fact, the Alberta Association of Chiefs of Police, I believe, would endorse that interpretation as well.

So I can only ask again that the minister take his place in the Assembly and encourage his colleagues to support an amendment which I believe is not only in the best interests of the people of Alberta but also reflects the majority opinion of the law enforcement community of the province as well.

THE DEPUTY CHAIRMAN: The hon. Member for Medicine Hat.

MR. RENNERT: Thank you, Mr. Chairman. I almost hesitate to get involved in this debate because I note that every speaker on that side was a lawyer. We had one wanna-be lawyer, but the rest were all lawyers on that side. The speakers on this side were all lawyers. I'm not a lawyer. With the greatest respect to lawyers, I find the way their minds work to be most intriguing. They have a very interesting way of developing an argument, and I really do admire the way lawyers can develop an argument. But with the greatest respect, Mr. Chairman, sometimes lawyers tend to get all bogged down in legal technicalities, and they kind of forget a little bit about common sense. So if I could introduce a little bit of common sense into the debate and try and explain the situation as I understand it. Certainly I stand to be corrected by some of these wonderful legal minds around me.

My understanding is that we have a Bill that is a creation of the all-party committee. That all-party committee brought together information and created a Bill. In that Bill they said that provincial departments will be subject to freedom of information, and they said that municipal governments also should be subject to freedom of information. However, in consultation with the municipal governments, with the municipalities, the municipalities indicated that they would like a time frame to adjust for it.

I sort of relate this all back to my experience, Mr. Chairman. In my younger days I was a member of Jaycees. Jaycees is a wonderful organization. We have local clubs around the province, and we have a provincial body. What I see here is that we have amendments to the provincial Act that are eventually going to be carried down to the local organizations. Provincially we're passing something that would say, for example, that the provincial Assembly and all committees of the Assembly will be required to file monthly reports on something. Eventually we want everybody to be doing that at the local level, but we recognize that locally the funding may not be at appropriate levels: the infrastructure, the knowledge, everything else. They don't quite have the capability to do it on a local level, so they need to have a chance to work into it. So we would say that all bodies associated with the provincial organization at the provincial level will be subject to the amendments and will have to file these reports on a monthly basis. However, down the road, in this case by the end of five years, locally they'll have to be on the same track. They will have to file these monthly statements, and we would have agreement to that.

Then someone waltzes in with an amendment to that, and they're saying: "Well, no, that's not quite right. Everything on the local level is going to be subject to this provincial agreement within five years, but we're going to identify this one particular board." Every local committee, every local club has one committee that's the discipline committee. Every other committee

will be given the five-year moratorium to develop this and get these monthly reports, but this one committee, the discipline committee, for whatever reason we think should be brought into focus on day one. So when the provincial organization is filing all these monthly reports, and we've given five years for the local organizations to get their act together, we're singling out one particular part of that local organization and saying, "Well, everything else doesn't apply, but this one particular part does."

My understanding is that that's exactly what the argument is. We're saying that municipalities and all bodies related to municipalities, all boards and commissions thereof, will have five years to come into concurrence with this. What we're also saying is: except for the police commission. The police commission doesn't have to wait five years; it has to start to do it now. I don't see any rationale for that, Mr. Chairman. It's very clear that the municipalities, all boards and commissions, will come into effect five years from now. Why would we want police commissions to be any different than all the rest?

Thank you, Mr. Chairman.

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Mill Woods.

DR. MASSEY: Thank you, Mr. Chairman. I heard the previous speaker call for some common sense, and I'm disappointed that he didn't follow it up. I'm having some trouble understanding why the minister, who admits that there's been some consternation and some discussion within the department and his officials as to the whole question of whether or not police commissions are included, wouldn't be anxious to dispel any kind of possible confusion and not just simply accept the amendment. We could have been done with this an hour and a half ago if that had been the case.

It seems to me that of all the bodies that are listed in the legislation – and they've been mentioned before: planning commissions, municipalities, irrigation boards – certainly in the public's mind the police commissions must rank among the highest. You don't have to watch the news very long to see the kinds of concerns that police activity raise in the minds of the public, and rightfully so. Of all our democratic institutions policing, law and order are among those of which we have to be vigilant in watching their activities. I can't understand why a priority like a police commission would not be ranked among the very first and highlighted in an Act such as this.

I guess I'm having even further difficulty because shortly after the election this government made a great deal of to-do in the press about its efforts to bring some sense to the laws that were written and to write those laws in common language, and I think the kind of subtleties and the cross-referencing to a variety of Acts is lost on most members of the public who would be concerned with this legislation. Most of us who don't spend a lot of time in courts and arguing with lawyers just want to be able to pick up an Act and simply read and understand what it says. So I make a plea for those people in terms of simplicity, in terms of making it abundantly clear what is intended, that the amendment be accepted.

Thank you, Mr. Chairman.

9:30

THE DEPUTY CHAIRMAN: The hon. Member for Calgary-Buffalo.

MR. DICKSON: Thank you, Mr. Chairman. In response to the comments of the Member for Medicine Hat, I was sitting here thinking that really the problem is not that we've got a couple of

lawyers trying to make this really complicated. If anything, what this amendment does is try and provide some simplicity. You know, it's hugely ironic that in a Bill that's designed to make it easier for Albertans to find out how they're governed, we're talking about a government which now refuses to spell out in plain language that police commissions are included. So we have these long, convoluted explanations that, well, we think they're tucked into this catchall clause and we don't have to spell it out.

Well, the thing that we heard repeatedly when we went around as part of the all-party panel was people saying: "Keep it simple. Allow any Albertan with a grade 9 education to be able to pick up the Act and find out whether a given agency is subject to the Act or not." The amendment makes it really simple, Mr. Chairman, makes it very easy. It simply says that anybody who looks at that list will see police commission on there, so there's no question.

What the government would have Albertans do is go and get a legal opinion, a legal interpretation, just to find out whether the police commission is subject to the Act. Well, what nonsense, Mr. Chairman. Why not simply make it as crystal clear as can be to Albertans? The way we do that is spell it out. Don't require people to go around and guess: well, is it caught in this subsection; is it caught in that subsection? Surely that's the reason that the parliamentary draftsman has gone through and enumerated specifically all of the other kinds of bodies that freedom of information applies to.

When the Member for Medicine Hat suggests that really this is a question of splitting hairs, he really should be directing his comments to the hon. minister responsible for this, the Minister of Justice, and the Member for Calgary-Shaw, who are all suggesting that we don't have to make it clear to Albertans. Well, that's completely inconsistent with the unanimous recommendation of the all-party panel. It's completely inconsistent with what we thought we were trying to do in the freedom of information Bill when it was passed last spring, and it's also quite contrary to the very strong views we heard from a number of people.

When we had submissions from the Alberta chiefs of police – and my colleague for Edmonton-Glenora I thought covered that very well, but there were some other submissions he didn't mention. The city of Edmonton had some powerful concerns in terms of this whole business of law enforcement. We heard similar kinds of concerns from the Canadian Association of Journalists, the Alberta Civil Liberties Research Centre. Mr. John Anderson, who is a solicitor with the city of Calgary and a gentleman with a keen interest in freedom of information, also made submissions all to the extent that law enforcement is an area that's often abused because the exceptions are too generous and too broad.

Here we have an opportunity to address those concerns. How? By specifically saying that police commissions are subject to the Act. To an Albertan who goes into the Queen's Printer or goes into the library and wants to find out whether somebody's included or not, what the minister is going to do is give them a copy of the Act and maybe a little note on the bottom saying, "Go out and spend \$250 and get a legal opinion if you want to find out whether police commissions are included."

MR. FISCHER: Don't charge so much.

MR. DICKSON: The hon. minister says, "Don't charge so much." I say to the hon. minister: why don't we make sure that lawyers can't get involved in this at all? Let's spell it out as clearly as it is in the amendment. All the government has to do is accept the amendment, and then we move on to deal with the

other eight amendments that we've got here. We're going to be here for a very long time, Mr. Chairman, because the government, for reasons that I find puzzling, is not prepared to respond to the reasonable demand by Albertans for more accountability in their justice system. They're not prepared to respond to I think the demand of Albertans to plain language legislation.

[Mr. Tannas in the Chair]

How many times have we heard members in this House say, "We want plain language laws"? I say to the Member for Medicine Hat that I expect he may have said that once or twice in the course of the last two or three sessions, that he wanted simpler language, and I agree with that. I want plain language. I want to make it simpler for people, and that's really all that's behind this amendment. It's a question of putting it in plain language, hon. members.

So what are we to deduce from the fact that the government won't do that? It's a puzzling situation, Mr. Chairman. I'm not quite sure why that would be. I think I'd ask every member who believes in plain language, every minister who thinks we should make laws so that anybody can read them and understand at a glance what's covered and what's not covered – I see some heads nodding in the back row on the government side, and I think that's excellent. I want to be able to report to my constituents that on a point that was as basic and as elementary as this there was at least one government member who nodded in agreement and who understood the importance of plain language.

DR. L. TAYLOR: What is that, Gary?

MR. DICKSON: Mr. Chairman, I hope *Hansard* reflects the fact that the Member for Cypress-Medicine Hat does not want to be known as one supporting plain language legislation. I'm sorry if I've unfairly tainted him. I saw he was a progressive member, and I thought he'd be anxious . . .

THE CHAIRMAN: The hon. Member for Cypress-Medicine Hat.

Point of Order Imputing Motives

DR. L. TAYLOR: Point of order. *Beauchesne* 459, motives.

AN HON. MEMBER: Twenty-three (h), (i), and (j).

DR. L. TAYLOR: Oh, 23(h), (i), and (j). Thank you.

THE CHAIRMAN: It's most helpful that we have the relevant parts here. You're making a point, I take it, hon. member, that somehow Calgary-Buffalo has made an allegation or imputed false or unavowed motives to yourself.

Calgary-Buffalo, would you like to respond to this point of order on the part of Cypress-Medicine Hat?

MR. DICKSON: Well, I'm surprised that the member should raise this as a point of order because there's absolutely no basis to it, Mr. Chairman. I invite you to make your ruling, because I'm anxious to get on in terms of dealing with the merits of the amendment. I frankly don't understand the allegation that's been made.

THE CHAIRMAN: The Chair would comment that it certainly seemed to me, hon. member, that you had indicated something to

the effect that it should be noted, I think in jest but nevertheless noted, in *Hansard* that Cypress-Medicine Hat was opposed to plain language, which presumably if he is objecting to it then is if not an unavowed motive certainly an unavowed intention on his part. If that be the case, then, you might wish to reconsider.

9:40

MR. DICKSON: Certainly, Mr. Chairman. I perhaps have been misunderstood. If the member in fact is an advocate and a supporter of plain language, then obviously he'll be supporting the amendment, and I'm delighted for that clarification.

THE CHAIRMAN: Hon. member, I think you've just landed an invite to debate. When the hon. member can say that if members do this, then they mean that, and if they don't mean that, they must mean something else, that really is an invitation to debate. I think your point of order has been taken and has been withdrawn.

Debate Continued

THE CHAIRMAN: I would invite Calgary-Buffalo then . . . Do you have a point of order?

MR. WHITE: No. He's finished.

THE CHAIRMAN: Oh, I'm sorry. Calgary-Buffalo, I didn't realize that you were finished. If we have no one over on this side, we'll hear from Edmonton-Mayfield.

MR. WHITE: Thank you, sir. [interjections]

THE CHAIRMAN: The Chair would apologize to anyone who doesn't realize that they're supposed to be able to stand up in a timely fashion. However, the Chair was under the misunderstanding that Calgary-Buffalo was going to continue and, having cleared that up, invited hon. members then to participate and in checking out thought for the moment that the Member for Lethbridge-West was going to speak and not seeing that went over to Edmonton-Mayfield, who was very quick on his feet and was there. However, in the give and take of debate if I somehow overlooked, without malice or intent, the hon. Member for Calgary-Shaw, then I'll be forced to have Calgary-Shaw and then Edmonton-Mayfield.

Calgary-Shaw, you were rising to speak?

MR. HAVELOCK: Yes. Thank you. I apologize, but I thought that the hon. Member for Calgary-Buffalo was going to be continuing. I'll be very brief, because I'd like to hear the Member for Edmonton-Mayfield's comments.

Mr. Chairman, I guess we're arguing here a bit of a moot point, because the problem is, if I'm understanding the amendment correctly, that if we were to pull the police commission out of (xvi) – and I still believe it's caught there. But even if it isn't, if we pull it out and make it (xvii) – I hope I'm following your amendment correctly – nevertheless it still falls within a general provision, which quite frankly this government has indicated will not be proclaimed for approximately a five-year period and come into force and effect. So the hon. Member for Calgary-Buffalo, while eloquently arguing for this amendment, nevertheless in my view isn't accomplishing what he wants to do. Does he want to simply pull out various agencies and bodies from (xvi) and make a long list, or does he want to pull them out and make the Act apply to them immediately? If it's the latter, then the amendment does not accomplish that.

Now, I'm not suggesting that we're going to go ahead, and I certainly am not suggesting that I may support making it effective immediately, because of my previous arguments regarding the five-year period. Quite frankly, if that's what the amendment is trying to accomplish, I don't believe it has, and therefore we should probably vote it down and proceed.

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

MR. DICKSON: Thanks, Mr. Chairman. Just in response. I appreciate the perfectly legitimate query from the Member for Calgary-Shaw. I think the point is this: the amendment has nothing to do with moving up the timing for when municipalities and what's known as the MUSH sector are subject to FOI. The purpose is making sure that the police commission, which is already by statute in a different position than the Library Board, hospital boards, irrigation districts – there are a host of municipally created boards. This member in fact has sat on a number of them which are in a different position because none of those boards draw their independence by a separate statute like the Police Act does.

The amendment is as simple as this, hon. member. We're simply saying: recognize that police commissions are in a unique position by virtue of the Police Act and a body of jurisprudence. Simply specifically say that police commissions will be a local government body so that when the Act is proclaimed relative to local government bodies, we know exactly what they're subject to.

Now, the member talks about a sequencing, and it may well be that what Albertans really want to see is for us to move it up. There is such an enormous focus on law enforcement and on ensuring that government is more accountable when it comes to criminal law enforcement that maybe we should move it up. Maybe the member has a positive suggestion here. Well, there were a couple of members who raised it, but they're making what I think is a pretty simple proposition more complicated than it need be.

The amendment is specifically targeted for when those sections are proclaimed. It applies to those bodies. All Albertans will know at a glance that police commissions are included, and it's frankly unfair for the Member for Calgary-Shaw to say: well, this is like the host of other municipally appointed boards and agencies. None of the rest of them are treated in the same way by the courts as police commissions. So all I'm saying is: let's recognize that. That's the legal reality. Let's respond to it. This is a constructive positive amendment to make it clear. I know that the Member for Calgary-Shaw supports plain language, and here's an opportunity to give full voice to that plain language.

Those are my comments at this stage.

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

MR. FISCHER: Thank you, Mr. Chairman. I appreciate the debate that's going on here.

I really want to bring forward what came out of the freedom of information and privacy study. This is a recommendation from the committee that three members of the opposition were on: the members for Calgary-Buffalo, Edmonton-Glenora, as well as Edmonton-Manning. It says in here that

during the public consultation, extensive discussion was conducted in relation to disclosure harmful to law enforcement. Critical review of this area should be undertaken in conjunction with the 3 year review of the legislation.

Now, when we go over to the Act and we look at section (xvi) of the original Act, it includes your police commission in it. We shouldn't go against and surely the members opposite don't want to go against what was recommended by the panel. So I don't think their argument should be able to hold up, because as much as they argue that you should state it right there, it is stated right out there in about as plain language – even I can understand it, so it must be reasonably plain. It is written so that it does include them.

I would urge all of our members not to support this particular amendment. We don't often write things three or four times in one piece of legislation to get the point across.

THE CHAIRMAN: Edmonton-Mayfield.

9:50

MR. WHITE: Well, thank you. [some applause] Thank you.

Thank you kindly, Mr. Chairman. Speaking in plain language for some of the members opposite and having had some experience in this, having had the opportunity to serve some of the citizens of Edmonton for some nine years civically – five of them were as a member of the Edmonton Police Commission. Now, you can deal with the law, if you wish, in trying to decide whether it's inclusive or not, but the facts are that plain language often prevails and particularly the perception of plain language at the municipal level of government. The facts are that the municipality honestly believes and members of the municipalities both in Edmonton and Calgary – I've had a great deal to do with the Police Commission in Calgary – honestly believe that the commission is a product of the Police Act and not of the municipality. Now, if that's the perception and if the member opposite is explaining that this is enabling legislation, enabling the police commission to fall under this, well, then why not make it very, very plain, put it in plain, simple language?

It's not a moot point, as one would think it is. Police commissions are often governed by municipal councillors that do not have extensive training in law or the opportunity to serve in this House in order to be able to read section after section and subsections that modify each other. The plain and simple truth is that inclusion here and perhaps the next time the Police Act is amended would be reasonable for any person to say that under these provisions, under two Acts this freedom of information, not just in letter but in spirit, actually applies to the police commissions across this province, which I'm sure is the intent of this government. Certainly it's the intent explained by two and perhaps three members of this Legislature on the government side, which intends to put this legislation into force and act upon it.

Now, the essence of a freedom of information Act is as much perception in the public as it is in law, public perception. It is arguable, as it has been shown from this side and from learned lawyers I'm sure, that it is not included. Now, take the position that you have some small body or an individual citizen wanting to challenge, wanting to find the information and having difficulty dealing with a police commission, which could in fact happen – it's not unheard of certainly – finding that they are being stymied by some member or other of that police commission or the police commission itself resisting on an item. I can cite a case in point.

There is in the city of Edmonton a provision – I suppose it is policy, because it is enacted only in a policy document – that says that in towing agreements with the city of Edmonton, there's one particular contractor. When it happens that the contractor is not called by reason of not having the automobile impounded, then another towing contractor is usually called. Well, that particular

piece of policy has been challenged over and over and over again. The actual information and all the debate is actually public, made available by the police commission, so the Act in that particular case would not have to apply. But the average citizen does not know that. And who is going to tell them that it's public? The police commission? No. You have to come to the public hearings. You have to be in the audience. You have to understand that that in fact is public information. It is not good enough to know that you can do it. If it's in legislation and it becomes common knowledge, then this House would have actually effected what they say they intend to do.

Now, I have a little difficulty with the argument that it's included or it's not included when again the essence of freedom of information is that it's public knowledge. Now, why? Because it's an opposition one? Because the government hasn't spent the time to really delve into it, to understand it? Now, that is a terrible, terrible, damning comment. If that be the reason, that's a terrible comment on that which we all do collectively in this House.

I know the member opposite, the minister, in fact to be a very honourable man, having served on boards a long way away from this Legislature before, and understand that it is not his intent to ever fool the people of Alberta on anything. He's a very, very forthright individual, as we've heard on a number of different issues before. He states his piece as clearly and succinctly as he possibly can and gets on with it.

I would think that he would again show himself to be that honourable person, that very honourable person, and examine it. He could ask that perhaps this portion of this piece of legislation be laid over. There's ample opportunity in the rules to table an item. He could table it quite easily, come back another day and then say: yes, this is it; there are one or two words in drafting. It would be very clear and very succinct in deliverance of good government in this province, particularly when it comes to information, which in this day and age is becoming much, much more of a powerful tool than it ever was in the past.

I call on the members opposite to do the right thing and at least table this so that the minister could speak to the officials and say, "Gee, is there some possibility of inclusion here?" We have a number of other days that we could speak on this one. There is no reason other than the one. I would hate to leave this Legislature with the legacy that there's a piece of legislation that has not been acted upon in the best interests of all the citizens of Alberta. There should be no partisan participation on which group is being affected whether positively or negatively. On this side of the House there shouldn't be, and I'm sure not on that side also.

So I call upon the members opposite to do the honourable thing. Merely accept that there is a possibility, in my view a very good possibility – and members here will certainly attest to it – that this amendment is worth at least the time and effort for this government to say: yes, we do listen and we do care about the legislation we pass in this Legislature.

Thank you for your time, sir.

THE CHAIRMAN: The hon. Minister of Justice.

MR. EVANS: Thanks very much, Mr. Chairman. I now move that we adjourn debate on Bill 19.

THE CHAIRMAN: The hon. Minister of Justice has moved that we now adjourn debate on Bill 19. All those in favour, please say aye.

SOME HON. MEMBERS: Aye.

THE CHAIRMAN: Opposed, please say no.

SOME HON. MEMBERS: No.

THE CHAIRMAN: Carried.

Bill 21
Engineering, Geological and
Geophysical Professions Amendment Act, 1995

THE CHAIRMAN: I call on the hon. Minister of Public Works, Supply and Services for opening comments, amendments, et cetera.

MR. FISCHER: Thank you, Mr. Chairman. I am pleased to make some comments. Certainly the comments that were made during second reading debate were in support of this housekeeping amendment Bill. As was mentioned in second reading, I can assure you that there is agreement all through the stakeholders to this amendment. These amendments came at the request of the industry and not from the government.

There was, however, some concern expressed regarding the definition of engineering. I did review the letters tabled by the hon. Member for Clover Bar-Fort Saskatchewan, and I would like to state again that the intent of the Bill is to bring the public representation and disciplinary hearing process in line with the principles and the policies governing professional legislation in this province. The Bill has not been introduced to address the issue of engineering definition. In the letters tabled, the argument was presented that Bill 21 should include an exclusion clause so that engineering in Alberta would be defined in the same way as elsewhere in Canada. It is my understanding, in fact, that the only jurisdiction in Canada with such an exclusion clause in legislation is the province of Ontario.

The issue of revising the engineering definition is currently being considered by APEGGA, and APEGGA has had dialogue with organizations representing natural scientists. The APEGGA council will be reviewing the issues with a view of taking it back to the membership after they've done their review.

I would also like to point out that the current definition for engineering has been in place since 1981, and I'm not aware of any instances in those 14 years where a natural scientist has been prevented from working in their area of expertise as a result of the engineering definition.

I believe that my remarks have addressed the concerns expressed during second reading. Bill 21 is a positive amendment to the Engineering, Geological and Geophysical Professions Act, and it is in keeping with this government's policy to be an open and fair government.

I would be pleased to try and answer any other questions that you might have.

10:00

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

MRS. ABDURAHMAN: Thank you, Mr. Chairman. Certainly I'm speaking in favour of this Bill, but I felt, as a member of the Official Opposition, that it's important that if Albertans have a concern about legislation, it behooves us to ensure that the government of Alberta is aware of that. So to that end . . . [interjection]

Mr. Chairman, I think the Minister of Municipal Affairs is having some difficulty over there. If I can help him out, I'd certainly be delighted to.

I'd like to table four copies of a letter, actually from the Minister of Public Works, Supply and Services, addressed to a Mr. Kratochvil – and I'm probably pronouncing the name wrongly – which is addressing the questions raised by this gentleman. To put it into the record, Mr. Chairman, the concern of this gentleman, in acknowledging the letter from the minister that he and apparently a number of other chemists received indicating that the government is unwilling to modify the definition of the practice of engineering in Bill 21 currently before the Legislature – I don't know what Mr. Fischer means by the phrase "given some other related matters currently under review," but to me it means that they are going to look at additional matters. If this is the case, why don't they postpone passage of the current Bill until they have been reviewed?

The reason I am communicating that, through the Chair to the hon. minister, is that I still believe there is some misunderstanding out there. I share the same view as the hon. minister. I'm not quite sure how this misunderstanding is continuing, and I'd ask the minister to communicate once again with these individuals to reassure them that indeed this is not the appropriate time for what they're asking for or that this legislation indeed is not the legislation where this would happen.

With those comments, Mr. Chairman, I certainly am supporting this Bill. Thank you.

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

MR. WHITE: Thank you, Mr. Chairman. The minister went through a brief explanation of some of the complaints and the concerns of some natural scientists that were concerned about a number of items, and rightly so. When the Bill does open the definition of engineering – the minister has assured the House that that will be occurring at some point in the not too distant future, with the concurrence of APEGGA, ASET, some natural scientist organizations, and other like organizations that do have some concern about the definition of engineering and the practice of engineering and the scope of that practice. I have to say that the legislation was needed for a long, long time. Again, this is one of reality and perception, because the reality is that there is a great deal of public participation and always has been in the profession's governing itself. This particular profession has been of long standing in the province and doing just that – and doing a very good job at it, I might add – but the perception of having another level of appeal is certainly warranted and in fact is wanted by the profession and is definitely the right piece of legislation at the right time.

I do have some other things to mention, and I'll be ever so brief, with the minister's concurrence. The minister has spent a great deal of time – and other ministers prior to – working with the association and has done a great deal of promotion of the profession and related professions of engineering throughout the world. The minister, the other ministers before him, and certainly the department should be complimented on that, because it is a very, very major area of economic development in this province. The engineering field and related fields, through the oil field industries and the engineers on that, from the megaprojects that were designed and built here, have taken that expertise, which was fostered by participation with government, and sold that expertise throughout the entire world. It has become one of the

cleanest of possible clean exports that this province has, primarily from the two major centres but also from Lethbridge and some very specialized areas. I believe there's a number of forestry consultants now that are working out of one of the forest capitals of this province, Grande Prairie, who are selling their expertise throughout the province.

So I would like to compliment the minister one more time. This is a very good piece of legislation, and I thank you for the Chair's time.

THE CHAIRMAN: The hon. Member for Redwater.

MR. N. TAYLOR: I may be raining on some of my colleagues' parades a bit, but also being a member governed by this profession, I think the minister and my colleagues have quite rightfully pointed out that this Bill is not to define the practice of engineering. I suppose some sort of a promise down the road that it would be done would be worth while. But what does bother me a bit was that engineers or the profession takes on itself, I think, as it quotes, "the professional application of the principles of mathematics, chemistry, physics or any related applied subject." Now, we take some consolation from the fact that through the years the engineers have not moved in and tried to discipline any pure scientists or physicists or chemists or something like that, but I'm just wondering why the government didn't just say that the profession would only have the right to govern those that are eligible to belong to the profession. In other words, that's a very simple way. That way you don't have to define the thing. All you have to say is that these rules shall apply to anybody that is eligible to become a member of the association. Instead, we're arguing, as governments so often do, that we're getting into trying to define engineering.

I think what we have here is a very broad definition of who the engineers, geologists, and geophysicists can control. That definition says it's anybody in math, chemistry, physics, or related subjects, yet there's no proof or any sign that in any way, shape, or form in the past they've ever tried to govern these areas. So why don't we just say that the professional engineers can only govern those that are eligible to become a member, if they wanted to become one?

MR. DICKSON: I'm persuaded.

MR. N. TAYLOR: Yeah. I just tossed it out, but saying that, I will vote for the Bill anyhow, because it comes closer than this government usually gets to the fact. I'd like to just turn it around and toss it back to them and say, "Would the engineers settle for being able to discipline only those people who are eligible to become engineers?" rather than coming out with a very broad statement that they regulate "the professional application of the principles of mathematics, chemistry, physics or any related applied subject." Under that definition they could have told old Galileo to stay home and shut up about Earth circulating around the sun. The fact that they didn't do it maybe is because they didn't exist when Galileo was around.

10:10

AN HON. MEMBER: That wasn't Galileo.

MR. N. TAYLOR: Copernicus? Galileo? No, wait a minute. Galileo is – what did he say?

AN HON. MEMBER: He invented the telescope.

MR. N. TAYLOR: Wait a minute now. They've got him inventing the telescope, but in order to find the sun, you had to know where it was.

AN HON. MEMBER: Look up.

MR. N. TAYLOR: So whether it's Galileo or Copernicus, it doesn't matter. The point I'm getting at is that they've taken on a huge field that they said they would govern. They've never done so. Then they turn around when somebody says, "Well, you're going to interfere with me," saying, "Well, we've never done so, in fact; wait till we define it." Well, I say: why wait till you define it? Just say that we're only allowed to regulate those people that can become members of our engineering firm and see what would happen.

Anyhow, that is enough said. Thank you.

THE CHAIRMAN: Are you ready for the question?

Okay. The Minister of Public Works, Supply and Services.

MR. FISCHER: Just a few remarks. First of all, I want to say, yes, we do have a great engineering profession in this province. I think we're second to none, in Canada certainly.

The Member for Clover Bar-Fort Saskatchewan mentioned the communication letters to the people. Yes, we are getting our communication letters out directly to those people as quickly as we can, explaining to them that this is for the disciplinary process and the governing policies of the Act. I think we have to make sure that we define what this particular Act is to those people, and we're trying to do that.

As far as defining the scope of practice, we all know – and I guess this includes the last member that spoke as well – that we are not defining the profession itself. They are asking us to define the scope of practice. In other provinces we have some of the professions that are taking in under their wing the different ones that are left out and want some portion of a scope of practice, and they're working some of those things out themselves. I don't believe that we want to get into defining the scope of practice for them when the industry should be doing it. Time is on our side with that, because some of them are beginning to do it.

With that I would just like to say thank you very much for the support on this Bill, and I urge all members to support it. Thank you.

[The clauses of Bill 21 agreed to]

[Title and preamble agreed to]

THE CHAIRMAN: Shall the Bill be reported? Are you agreed?

HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed? Carried.

Bill 28 Real Estate Act

THE CHAIRMAN: The hon. Member for Lacombe-Stettler. Any comments or amendments as we begin?

MRS. GORDON: Thank you, Mr. Chairman. During second reading I heard some concerns and some questions raised by the

members opposite, and I would like to take this opportunity to go over some of their questions.

The hon. Member for Clover Bar-Fort Saskatchewan was concerned about two consumers being on the council. I would like to tell the members of the Assembly that this Bill has been a long time in the making. It has had considerable debate and discussion by industry associations, and it's my understanding that a full 18 months was devoted to the undertaking and certainly the makeup of the real estate council. The original proposal put forward had only one consumer member. The Minister of Municipal Affairs requested a second member. One consumer would be appointed by the real estate council, and the other would be appointed by the minister. This is an industry council, and in order for this to work within acceptable ratios and keep the council as small as possible, they felt that this was the most workable composition. The council is regulatory in nature, and they will be setting regulations as well as enforcing these rules, bylaws, and policies that they'll be working under.

The hon. member also had a concern about the wording of section 6(1)(e). This section reads that the members appointed by the Alberta Mortgage Brokers Association, the Alberta Real Estate Association, the Building Owners and Managers Association, and the Real Estate Institute of Canada – that's eight members in total – will appoint two additional members: one industry member and one public member. As I said earlier, the Minister of Municipal Affairs will appoint one consumer, or one public, member, for a total of 11.

Section 18 deals with the acceptance of money from the public, and in this section the industry member must have a written agreement in place before money can be accepted. This industry member must in the agreement specify the terms of trust by which the money is held. If an industry member has any direct or indirect interest in the property, the member must provide full disclosure in writing before accepting any money.

The Member for Calgary-Buffalo talked a great deal about section 83 and regulations. I will highlight his concerns regarding regulations now, and we'll come back to it at the end of debate in Committee of the Whole. The regulations currently in place will be the primary regulations for this Act. What will occur is changes in authority with the writing of this Bill; namely, the authority of the superintendent and the change in the authority of the minister. Previously, it was the minister who appointed the superintendent, and now this top administrative position will be appointed by the council. The only new regulations to be drafted will incorporate sections of the Real Estate Agents' Licensing Act and the Mortgage Brokers Regulation Act that are not included in the Real Estate Act or the current regulations. Initially, the regulations will not change industry practices, only who is responsible for them. I would also like to tell the member opposite that many of the regulations coming forward in time will be driven by the real estate council and will be also driven by the industry.

The hon. Member for Edmonton-Roper wondered how many real estate agents and salespeople there were in the province. There are 8,845. There are 1,321 licensed agents, 136 branch offices, and 7,388 salespeople registered. This is certainly, you can tell, a direct result of the number of people that the Alberta Real Estate Association is appointing to the council, and that's six members.

The hon. Member for Edmonton-Roper also talked about the assurance fund. For the benefit of those members who are not sure what the assurance fund is about, there is an errors and

omissions insurance. There are two separate means of protection provided to consumers in the Real Estate Act. One is the assurance fund and the other is errors and omissions insurance. The assurance fund is similar to a bond. If a consumer gave an industry member money and the industry member were to abscond with this money, the consumer is protected in the amount of \$25,000. All consumers collectively are protected to the amount of \$250,000 per agent. There have been unfortunate situations in the past where agents have experienced a shortage of funds, and consumers' money was protected. The assurance fund will be administered by the council.

10:20

The errors and omissions insurance is also mandatory for all real estate agents and salespeople, administered by an insurance company, the real estate insurance exchange. The council will replace the superintendent and the Alberta Real Estate Association as the administrator. The company will compensate industry members' clients if they in fact were negligent in their duties. This provides protection and confidence for people who deal with industry members.

As well, the Member for Edmonton-Roper talked about section 83(2)(k). This is currently a regulation in place regarding the Real Estate Foundation. The regulation will proceed with a few changes requested by the foundation. The procedure has been in place for a number of years and has worked most effectively.

Also the hon. member spoke about the differences between partnership and corporation. Within this legislation we have tried to use as many common definitions as possible. In the drafting of section 18(3), the intent was to use the most inclusive definition possible to define "direct or indirect interest." The definition of "associate" in the Securities Act provided not only a broad definition but one that could be consistent between the two Acts. The definition in the Securities Act reads as follows:

- (a.1) "associate", when used to indicate a relationship with a person or company, means
 - (i) an issuer of which the person or company beneficially owns or controls, directly or indirectly, voting securities entitling him to more than 10% of the voting rights attached to outstanding securities of the issuer,
 - (ii) any partner of the person or company,
 - (iii) any trust or estate in which the person or company has a substantial beneficial interest or in respect of which a person or company serves as trustee or in a similar capacity,
 - (iv) in the case of a person
 - (A) that person's spouse or child, or
 - (B) any relative of that person or of his spouse who has the same residence as that person.

The Member for Edmonton-Roper was concerned with section 6 and consultation with the new home warranty builders and the Canadian Consumers' Association. As mentioned earlier, the composition of the real estate council was discussed with stakeholders and interest groups. The Consumers' Association of Alberta as well as Canada were involved. The Consumers' Association of Canada had a member representative since the initial discussions were held. Currently there are two public members on the Real Estate Licensing Committee, and the Consumers' Association of Canada concurred with that number. Although the new home warranty program and most builders are not affected by the Real Estate Act, consultation and information sessions were held with them and their associations.

As well, the hon. Member for Edmonton-Roper was concerned about section 83(2)(i). From time to time the insurance fund may

have an excess over the amounts prescribed in the regulation. This amount has in the past been used to establish a higher professional standard by providing new courses for industry members. This is currently in the real estate assurance fund regulation and will continue with the authority moving from the superintendent to the minister to ensure the funds are properly used.

Before I turn the debate over to the opposition, I would again like to say that this is a piece of legislation and a Bill that the industry wants and needs. They have very much worked with Municipal Affairs and their entire industry to come forward with what I believe is a very progressive piece of legislation.

With that, Mr. Chairman, I would move that we adjourn debate.

THE CHAIRMAN: Okay. The hon. Member for Lacombe-Stettler has moved that we now adjourn debate on Bill 28. All those in favour, please say aye.

SOME HON. MEMBERS: Aye.

THE CHAIRMAN: Those opposed, please say no.

SOME HON. MEMBERS: No.

THE CHAIRMAN: Carried.

The hon. Deputy Government House Leader.

MR. EVANS: Thank you, Mr. Chairman. I now move that the committee rise and report progress.

[Motion carried]

[The Deputy Speaker in the Chair]

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

MR. HERARD: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration certain Bills. The committee reports Bill 21. The committee reports progress on the following Bills: Bills 19 and 28.

Mr. Speaker, I wish to table copies of all amendments considered by the Committee of the Whole on this day and copies of documents tabled during Committee of the Whole on this day for the official records of the Assembly.

THE DEPUTY SPEAKER: Does the Assembly concur with this report?

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? So ordered.

[At 10:29 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]