

Legislative Assembly of Alberta

Title: **Monday, May 15, 1995**

8:00 p.m.

Date: 95/05/15

[Mr. Tannas in the Chair]

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

THE CHAIRMAN: I'd like to call the committee to order. Committee members are reminded of the well-established convention that we'll have only one member standing and speaking at a time.

Bill 37 School Amendment Act, 1995

THE CHAIRMAN: The committee will remember that when we recessed this afternoon, we did so in the midst of the presentation on amendment A6 by the hon. Member for Edmonton-Centre. So we'd like to invite none other than Edmonton-Centre to continue his comments on amendment A6.

MR. HENRY: Thank you very much, Mr. Chairman. The record will show that I am continuing speaking at the insistence of the hon. Government House Leader. Since he has asked me to continue speaking, I will continue doing that. I see that the minister is absolutely beside himself with joy.

Mr. Chairman, on a serious note. As I mentioned before, in the School Act there are two sections that have a potential for conflict if we ever get into a situation where there's a disagreement between a local board and the minister with regard to disposition of reserve funds that have been reserved for a capital purpose. One section of the Act, section 181, says that when funds are raised through a special levy, in the instance where a board has opted out of the school fund, those funds must be used for the purpose contained in the resolution that established the plebiscite that gave permission for the special levy of up to 3 percent of the board's budget.

However, there is another section which the government is now amending which would allow the minister to be able to direct a board with regard to the disposition of any capital reserve funds it may have on hand. Now, when we get down the road and you get a school board who's gone to their electorate and said, "We would like permission to raise 3 percent more of our budget in taxes for a special capital project" and the electorate has a plebiscite and a resolution that states what that is for, then the minister of the day may come in and say at some point after that: "Excuse me; I don't agree with that particular purpose. I want those funds used for a different purpose."

There are two conflicting clauses here. What's going to happen is we'll end up seeing another school board take this government to court for a ruling. We know the government's position to date has been that local school jurisdictions do not have constitutional status or legal status in terms of being able to act independently of the provincial government. In fact they are, according to the government, products of the government and exist at the pleasure of the government. Of course, there is an action now in front of the court on school boards that essentially says that school boards were around long before the provincial government was around and that they have a right to exist independent of the government or independent of the government's wishes.

So all this amendment does is very clearly put that one to rest. I believe this amendment is consistent with what the minister has said in debate: that when funds are raised by a special school tax levy, as I previously described, it's not the government's intent with regard to the current amendments under discussion to be able to move in and overrule the right of the local voters. However, Mr. Chairman, we have seen repeatedly in the last two years the provincial government go in and overrule the wishes of local voters, and we've seen the provincial government dramatically take away local control from local electors through their trustees and place it in the hands of the provincial minister and the Department of Education.

So I hope that the minister and all members of the House accept this in the spirit in which it's presented, which is not to alter what the government states its position is but to avoid another costly legal action using both local and provincial tax dollars for that action.

With that, Mr. Chairman, I'll take my place and ask for any comments from various members.

MR. JONSON: If I might just briefly comment, Mr. Chairman, and that is that I understand the point that the hon. member makes. However, the formation of legislation, its application is quite clear in that a clause that is specific in its application, such as the one that is currently in legislation with respect to plebiscites, takes precedence over a clause which is more general in its application, which is with respect to the one we've just discussed on capital funding.

I would just remind hon. members that the clause on plebiscites is quite specific. One, the purpose of a plebiscite has to be clearly stated so that the voter knows the purpose for which the money is being raised. Secondly, it is quite clear that the application of those funds, should the plebiscite be positive in its result, is for that purpose. This is very clear and would take precedence over the section to which the hon. member refers.

I would recommend that this amendment, although I see the comments that the hon. member is making, is not necessary, and therefore I would not recommend its acceptance.

[Motion on amendment A6 lost]

MR. HENRY: Beaten down again, Mr. Chairman. I will keep trying though. The record will be very clear that the minister and the government members did not agree with that particular amendment I just proposed and unfortunately voted it down.

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

THE CHAIRMAN: The hon. Member for Calgary-Egmont is rising on a point of order. Do you have a citation?

Point of Order Items Previously Decided

MR. HERARD: Yes, Mr. Chairman, 23(f). When a matter has been voted upon, then we move on to something else. In fact, the rules are quite clear about that in that we're not to discuss something that we have voted on.

THE CHAIRMAN: Does anybody from the Official Opposition wish to speak to that point of order before the Chair rules?

The hon. Member for Edmonton-Centre.

AN HON. MEMBER: What point of order?

MR. HENRY: Thank you very much, Mr. Chairman. Exactly: what point of order? I believe that it would be inappropriate to revisit the arguments that were made with regard to a particular vote. It would be inappropriate to comment on whether it was an evil or a gracious or a glorious thing to do in terms of a vote, although we do know that that's been done several times on both sides of this House on a regular basis. I think it is important to note the description I gave with regard to the vote. If the hon. member would prefer, we can have division every time.

THE CHAIRMAN: The Chair would first of all concur with the hon. Member for Calgary-Egmont that if an hon. member debates any previous vote of the Assembly – and this has occurred but not always been brought to the attention – unless it's the member's intention to move that it be rescinded . . . It's well taken. In this particular case all we heard was just a brief reference of regret and then took it that the hon. member was going on. If they are going to be referring to past votes when they are dealing with these amendments or with second readings or third readings, I think that's something all hon. members should take into account, that the debate is over. The Chair does not feel that the hon. member strayed very far in this one, just made a brief mention, but if he had gone on at any length, I think it would be worth bringing the member into line had that occurred, which it did not.
Edmonton-Centre.

MR. HENRY: Thank you very much, Mr. Chairman. I don't know what the hon. Member for Calgary-Egmont had for dinner, but if he had been a bit more patient, he would have understood that I was going to relate the results of this vote to the next topic that I would like to talk about and the next issue that I would like to raise.

8:10 Debate Continued

MR. HENRY: Very specifically, we were talking about special school levies with regard to disposition of capital funds in the Catholic system, and I think we need to talk generally about how the separate system in our province is able to raise funds. I refer specifically to section 18 of the Bill under question. Section 18 speaks to the special school levy, Mr. Chairman, and basically what it does is outline the properties that would be assessed for inclusion under a special school levy, which would again be able to be accessed by all boards but is of particular concern to separate boards in our province.

Under section 18 it deals with three sections: (2), (3), and (4). It talks about the property of an individual being "assessable for separate school purposes under a notice under section 135." I'm referring to (4). Well, Mr. Chairman, that's a significant change. Section 135 and section 132 have very different requirements or very different parameters with regard to what property would be assessed for the special school levy, again with respect to a separate school jurisdiction.

Section 135 of the Act deals specifically with the fact that separate school electors "may give written notice" in terms of their property being assessable and goes on from there. Section 132, rather than having the individual give notice that their property is now assessable because they are of the minority faith, defines how that shall be determined separate from whether the individual gives a notice or not. So what we would have is the result of the municipal census that was in place when Bill 19 was

passed by this Legislature, and what we're seeing here is that the end result of this, as I understand it, would likely reduce the amount that separate school jurisdictions would be able to have in terms of amount of assessment available to them when they are exercising their right under the special school tax levy.

Mr. Chairman, I know that members do want to speak to this whole issue of how we got to this point. I'd like to very briefly, if I can, in a few sentences give a brief historical introduction as to how we got to the point where we are now having separate school boards having their assessed properties for purposes of taxation reduced in terms of the parameters of what's allowed and what is not allowed.

Briefly, there are two principles here. One is in terms of absolute, narrow interpretations of what the Constitution provides, and another is an interpretation of what a Legislature did when it expanded upon those provisions in the Constitution. We go back to 1901 very briefly with the North-West Territories Ordinances and the Alberta Act in 1905, which guaranteed Catholic school supporters the right to be assessed taxation for running their own schools and the right to govern their own schools.

We moved on in time. There were amendments and some changes and whatnot, and then we got to 1988 with the School Act amendments – I believe it was Bill 27 – under the hon. Nancy Betkowski at the time. What she proposed, Mr. Chairman, and the Legislature adopted was an enhancement of those provisions for the separate community, again in Alberta primarily Catholic, the minority-faith community, to be able to access taxation directly for maintenance and for controlling of governance of their own school system. What we went from was the situation where the separate school minority-faith community was able to access just those taxes where individuals declared they were of that minority faith or where corporations declared that either they or a percentage of their shareholders were of that minority faith to a different situation where the Catholic community primarily and the separate community generally were able to access a broader base, which would include a proportionate share of the nondeclared taxation. This was dealt with in Bill 19. I recognize that, but I think it's good historical background. They were given access to a proportional share of the undeclared taxes both individual and corporate. Last year we saw Bill 19 – I'm fast moving forward from 1988 – of which the initial draft threatened to remove all the rights of separate school supporters to run their own system and to collect their own taxes to run that system. That was objected to strenuously primarily by the Catholic community in Alberta as well as by individuals in the civil liberties movement and by constitutional experts. As a result of that pressure and the pressure from the opposition, the government came in with amendments to its own Bill which completely rewrote that section to allow Catholic boards to opt out of that section in terms of centralized taxation collection and to allow them to essentially run their own system.

Now, one would have assumed at that time that when it was recognized that they had the constitutional right to collect their own taxes from their declared supporters, what would have been allowed to continue was the enhancement of those rights which, debatably, may or may not have been in the constitutional provisions but which some people believe were an extension of those rights that were granted in 1988. Unfortunately, the government has chosen to roll back the clock and essentially pretend 1988 never happened. In my view and in the view of many people in this province, the government has chosen very deliberately to punish the Catholic education community in this province for having stood their place last year at this time and

demanded their rights under the Constitution, under the North-West Territories Ordinances of 1901 and the 1905 Alberta Act and subsequently the Canadian Constitution.

Mr. Chairman, I think that it's sad, that it's regrettable. It's almost like from another world when a group or an individual in a particular jurisdiction stands up and says, when they feel an injustice is done to them, that they do not accept it and they exercise those rights, that the response they get is not just a narrow interpretation and preservation of those rights but at every turn down the road a very clear message from the majority that that group will get nothing, that that group will get exactly what it asks for. I'm paraphrasing something from outside this Legislature in terms of a very narrow definition of what their rights were in the Constitution.

What we're seeing in this piece of legislation is a further eroding of that, referring to section 135 rather than section 132 with regard to under section 181.3(4). So, Mr. Chairman, I would like to propose an amendment – and I have four copies signed for the Table and others for every member of the Legislature – that section 18 of Bill 37 be amended in the proposed subsection 181.3(4) by striking out "a notice under section 135" and substituting "section 132."

Mr. Chairman, as always I'm prepared to listen to debate on issues, and I'm willing to listen to explanation. The only explanation we've ever received from the government is that the government in its view is not infringing upon the rights enshrined in 1901 and 1905 for the separate school supporters in the province. What I would like to have addressed is something further, which is: why is it that the government continues to go after the Catholic community in this province, and why is it that this government refuses to negotiate and refuses to operate in good faith? I'll await comment once that is circulated.

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

MR. HAVELOCK: Yes. Thank you, Mr. Chairman. I appreciate the opportunity to address what I consider to be the very positive provisions of Bill 37, but in addition to that to . . . [interjection]

THE CHAIRMAN: It's not a point of order. The Chairman had not indicated that we have received the appropriate copies for tabling purposes that have the appropriate signatures and that it's now A7 as moved by Edmonton-Centre, and invites Calgary-Shaw to continue.

8:20

MR. HAVELOCK: Well, thank you. As I stated prior to being interrupted, I appreciate this opportunity to address what I consider to be the very positive provisions of Bill 37, and I will certainly address momentarily the amendment put before the House by the hon. Member for Edmonton-Centre.

I do suggest that Bill 37 is positive due to my involvement as a member of the implementation team relating to Roles and Responsibilities. The school council recommendations generated by the public consultation process are reflected throughout Bill 37 and in particular in section 3 regarding the advisory nature of such councils, the indemnification requirements in section 7, and the extension and the implementation date to February 15, 1996, is referenced in section 29(1). These amendments should facilitate the orderly establishment and operation of school councils throughout the province, and for that I would like to express my appreciation to the minister and his department.

Nevertheless, Mr. Chairman, while I support and will vote for Bill 37, I feel compelled to address what I consider to be a significant deficiency in the Bill. The deficiency is not in what the Bill provides but rather in what Bill 37 omits. The hon. Member for Edmonton-Centre made reference to part of that concern. During the past few weeks, I have received a significant amount of correspondence from my constituents regarding the elimination by Bill 19 of the interfaith marriage provisions enacted in 1988. The general consensus expressed in such correspondence was the desire for Bill 37 to reinstate the interfaith marriage legislation.

By way of background, my understanding is that when enacted in 1988, the provision rectified the untenable situation of separate boards educating children from an interfaith marriage without access to all of that family's tax dollars. Granted, Mr. Chairman, the equitable funding provisions of Bills 19 and 37 in conjunction with the recently adopted funding framework resolve this issue. If an opted-out separate board serves children of an interfaith marriage, it receives half the family taxes through the declaration of support by the Catholic parent when the board requisitions from the municipality. The other half of the family taxes goes into the Alberta school foundation fund, or the ASFF. The opted-out separate board will receive the balance of the funding for an interfaith student from the ASFF. Consequently, Catholic boards receive full funding for all students they serve, including children from interfaith marriages. As a result, it is arguable that the 1988 provision is unnecessary, though this ignores two associated issues.

First, the elimination of the interfaith provision is potentially divisive in that the family unit is no longer regarded as such. Second, and for my constituents a matter which is critical, Bill 19 has precluded one spouse in an interfaith marriage from participating in the democratic process of the school system which his or her children attend if the designation of that system, whether public or separate, does not coincide with that spouse's faith. By way of example, the non-Catholic spouse in an interfaith marriage cannot vote for or seek office as a trustee of the separate board even though their children attend that system. I recognize, Mr. Chairman, that interfaith homeowners are grandfathered if they had purchased their home prior to May 1994. However, if such homeowners subsequently move, grandfathering no longer applies. There is a further potential for the individuals of interfaith marriages to falsely answer the enumerator's questions to indirectly achieve the 1988 result. A system which encourages such behaviour is not in my view sustainable.

In conclusion, Mr. Chairman, the interfaith provisions of Bill 19 are consistent with the constitutional requirements of both the public and separate systems. Nevertheless, it creates an anomaly in that interfaith marriage parents in both systems may be precluded from exercising their democratic prerogative within the system which their children attend. Our government has ensured that funding follows the child within both systems. It is my view that an amendment which enables a parent's vote to follow the child is also desirable. While I fully support that, nevertheless in light of the issues before the courts, I'm not comfortable in having this amendment go forward prior to the resolution of such issues before the courts. As a consequence, I regrettably cannot support the amendment at this time, though I am hopeful that something similar, once the court issues have been resolved, will be brought forward in the future.

Thanks very much.

THE CHAIRMAN: Okay. Before we continue with the debate, would the committee give consent to revert to Introduction of Guests?

HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed? Carried.

The hon. Member for Olds-Didsbury.

head: **Introduction of Guests**

MR. BRASSARD: Thank you, Mr. Chairman. We're joined tonight by three members of the Social Care Facilities Review Committee. They are accompanied by a guest, and I'd like to introduce them: Carol Brown from Pincher Creek, Lee Urquhart, Irene Salisbury, and they are accompanied by Phyllis Coutts, the wife of one of our members. Would you stand and receive the warm welcome of this Assembly?

THE CHAIRMAN: The Chair would take the opportunity to observe for those in the gallery that this is the informal session of the Legislature. Members in fact are allowed to move from one side to another, to have coffee inside the Chamber, and to remove their jackets. The rules of debate are somewhat relaxed as well in that a member may speak on many occasions to the same item, with a limit of 20 minutes per time.

The hon. Member for Edmonton-Centre on amendment A7.

Bill 37
School Amendment Act, 1995
(continued)

MR. HENRY: Thank you very much, Mr. Chairman. I'm almost tempted to acknowledge the previous guests who were just introduced and beg them not to carry out an investigation and include this Assembly in the Social Care Facilities Review Committee annual report. I welcome them here and thank them for coming to this debate.

Mr. Chairman, I want to respond to the previous speaker. I understand his reluctance to vote for the motion because the matter is before the courts. I know that when we get to a later section that makes part of this legislation retroactive, he'll be on record as supporting removing that section because that matter is indeed in front of the courts. I know the hon. member strives for consistency from time to time.

I would like to address the issue of the interfaith marriages now that it's been raised, Mr. Chairman. It does seem to me and it does seem to most Albertans that I have heard from – and I have heard from dozens, hundreds in fact at this point – with regard to interfaith marriages that it doesn't make a lot of sense, when we have the provision that individuals can direct their taxes directly to a school division, for individuals not to be able to direct those taxes to the school division where their children attend, particularly in interfaith marriages. We have a government who is speaking a lot about family unity, about family cohesion. I won't bore you at this point, but I could quote from the 1988 amendments, the background paper from the government in 1988. The government leaned very heavily on the need for family cohesion and family unity with regard to interfaith marriages and at that point allowed situations where you had one parent who was a separate school, minority-faith believer, whether that be Catholic or protestant in the minority situation, and their spouse was not of the same faith and they were raising their children in one or the other faith, to send all of their taxes to that school system so that they would feel as a family unit that they were supporting the school system where their children went.

It goes beyond just money. The minister is correct that in the whole scheme of things the amount of money available per child

is not going to change because the government has centralized collection of taxes and it's gone on an equalized distribution of funds, in its terms. We're not going to see any more or less dollars go to the minority faith system, in most instances the Catholic system. However, there is a subtlety that I think has escaped the minister and the government with regard to how it is that interfaith marriages operate.

8:30

Can you imagine a situation, Mr. Chairman, the family I've just described, in most instances one Catholic and the spouse being non-Catholic and the children being raised Catholic? Not only do they have to split their taxes and send half to the central fund in this case and half to the Catholic system, but only one of those parents can vote for the trustee that is going to govern that system. That is a tragedy. Catholics willingly gave non-Catholics the right to vote in their school board elections when the non-Catholic's children were indeed Catholic and attending that system. So we now have created a system in our province whereby a whole class of people in interfaith marriages will not only not be able to send their taxes, which is a symbolic measure admittedly because of the nature of the funding arrangements, but they will also not be able to vote for the trustee that is going to run the system that their particular child attends.

Mr. Chairman, I only want to briefly reiterate my argument from before, which is very clear and which says that what is happening here is that members of the minority faith community, in this case in interfaith marriages, are being punished by this government. They are being told: we're going to stick it to you; we're going to do everything we can to make life more difficult for you, because you made life difficult for us in 1994. I want to say on the record that when this party forms the government or when any member in this Legislature is in government, I hope in my heart of hearts that we have people out there who stand up for their rights, who challenge us, who make us think, and don't allow us as legislators, whether we're in government or in opposition, to run roughshod over the rights that have either been enshrined or have been assumed.

Chairman's Ruling
Decorum

THE CHAIRMAN: Hon. members, we have at various times five people standing and talking, not to mention far too many people talking and laughing out loud sufficient so that it's becoming impossible to hear the hon. Member for Edmonton-Centre, who speaks at close distance to the Table. Those who wish to engage in lively conversations, please go to the lounges after you've cleared it with your Whips. The rest hopefully will be quiet enough that we can hear Edmonton-Centre.

Debate Continued

MR. HENRY: Thank you very much, Mr. Chairman. I hesitate to refer to the fact that the Government House Leader asked me to continue, because he might just jump up and reverse his decision.

The argument very clearly put is that we've now created a situation in our province whereby separate school supporters are going to have less leeway with regard to collection of taxes in their system and where members of interfaith marriages are not going to be able to direct their taxes and vote in elections relative to the school jurisdiction their children attend. Mr. Chairman, this is not only illogical but, I believe, immoral. I believe that when we have a government that went to great lengths in the last year to have a major public discussion about having more parental

involvement in our schools, to have created a situation where parents in interfaith marriages cannot even vote in elections and cannot participate by directing their taxes to the school system where their children go is a tragedy, and the record will speak for itself. I daresay that I hope hon. members don't have the government whips placed on them on this issue, and I hope that we indeed do have a true free vote on this issue.

THE CHAIRMAN: Are there any other comments?

[Motion on amendment A7 lost]

MR. HENRY: Mr. Chairman, I don't want to reflect on a previous vote, but I'm sorry that the government members voted unanimously to reject that amendment.

The next amendment that I would like to talk about and propose is one that I raised in second reading – and I thank the minister for having responded at the beginning of committee – which is the disposition of capital assets and the minister being able to direct that. Currently when the board no longer has use for a school building, as often happens in my constituency with a downtown population and with the number of students declining in our school system in the downtown core – in fact, one of our communities will lose its school this year because of declining enrollment. The way the current system works is that that particular school can be disposed of with an agreement between the minister and the local jurisdiction, and the minister may actually direct that local jurisdiction to dispose of that building. The proviso is that that building is disposed of at market value.

So if that building is valuable as a school and there is potential for it being used for another kind of school, then that's a fair market value. If it basically is in an area that's no longer populated because everybody's moved out and it's become commercialized or industrialized, well, then it'll be as valuable as an old warehouse might be. But the key point is that fair market value. What the government proposes to do under section 20 of this Act is to remove the section that requires that it be sold at fair market value, and basically one would assume, given that the minister has given the direction here, that it will be allowed to be sold for any purpose and for any amount.

Now, the explanation the minister has given us is that you may have two jurisdictions close together and one jurisdiction no longer needing a particular facility. When the minister was speaking earlier today, I had visions of him ordering one school board to sell a facility for a dollar to the neighbouring school board and either redrawing the line or having the whole thing jacked up and moved across the line, but I know that's not what the minister meant. What he was saying was that when there are jurisdictions that are close in geographic proximity, overlapping or very close, then when one no longer needs a facility and another one does need the facility, the minister could move in and direct that it essentially be transferred to the other facility. I don't think the majority of Albertans would have a problem with that, but that's not what this says.

This does not say that it allows the minister to direct that a facility be disposed of by giving from one public jurisdiction to another public or separate jurisdiction. It just removes the fair market value component. So future ministers might if they wished to, regardless of existing policy, without coming back to this Legislature, under this current section be able to dispose of that particular building and give it to a private school operator for a dollar or give it to a noneducation use landowner or property

owner for a dollar or be able to direct the school board – the minister can frown at this one – to give it to a provincial government department at below market value.

Mr. Chairman, given that, yes, the province has paid the majority of school costs, there are costs that have been borne by the local jurisdiction in terms of maintenance and upkeep and in terms of part of the original construction of some of these buildings. So what we have here – and I take the minister at his word. I don't think we have a difference here in terms of the intent or in terms of what the minister would desire to do, and our agreement with that would make sense. What we have here is not clear drafting in terms of legislation so that it would clearly match the intent of what the government is intending to do.

Again, we have to recognize that when we deal with legislation here, we're not dealing with legislation for you and me sitting here but for some future minister or some future – dare I say, Conservative opposition critic or otherwise? – opposition spokesperson in education and future school boards. So I think that again we're dealing with poor drafting here in terms of being able to accurately interpret the intentions of the minister and being able to put that in words in legislation. If the minister – and I take him at his word – simply wants the ability to move buildings around in terms of ownership between public and separate jurisdictions that are close together when it makes logical sense to do that, the smart thing would have been to put in a clause that allowed him to order buildings to be disposed of at less than market value for that particular purpose. But that's not what this says, and this is going to be interpreted by future bureaucrats or future school boards or future ministers of education – and I daresay that we won't all be here forever – in, I believe, a negative or potentially different outcome than what the minister has intended.

8:40

So to that end, Mr. Chairman, I would like to propose an amendment, not surprisingly, and I have four signed copies for the Table as well as copies for distribution. What the amendment does is simply delete section 20 of Bill 37. If this by chance carries, if the amendment carries in this Assembly tonight, then I would welcome the minister coming back with another draft amending section 187(3) of the School Act to make it more clear what its intent is and to make it also clearer for the future.

So I would move that amendment that I've just forwarded to the Table and ask you to number and distribute it.

THE CHAIRMAN: Okay. Thank you, hon. member. The hon. Member for Edmonton-Centre has moved an amendment which will be called A8, that Bill 37 be amended by striking section 20. The Chair would indicate that we have received the necessary signatures on the copies that are tabled here and would invite further comments.

MR. JONSON: Mr. Chairman, I acknowledge the hon. member's concerns, but I would like to first of all reiterate a comment that I made earlier, and that is that it is the policy with respect to the disposal of school buildings that tenders are invited. We are quite rigorous. I suppose this might be considered something that has been a concern across the way; that is, perhaps we are directing school boards in this regard. We do insist that there be a process of public tendering when buildings are being disposed of to the private sector. Therefore, that proviso is in place. We're not in any way here, in my view, raising the prospect of some type of fire sale of school buildings.

Mr. Chairman, I think that with the population growing in the province and there being also significant shifts in population that we have faced already and will face in the future, there have been situations where it is mutually beneficial to the students particularly but also to the school systems involved to be able to transfer the use of a building. If the issue becomes one of market value, where you're really moving facilities internally within the education system and where there is insistence on market value as opposed to the cost to the local set of taxpayers who go into the building, you're really inhibiting the smooth flow of the process. I think that there certainly is protection in terms of selling a building below market value if in fact it is going on the market, but I think that we should keep the costs to the system down to a reasonable level when we're using it internally for the students of the province.

THE CHAIRMAN: Okay.

Before continuing debate on amendment A8, I wonder if the committee would give permission to briefly revert to Introduction of Guests.

HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed? Carried.

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

head: **Introduction of Guests**
(*reversion*)

MR. FISCHER: Thank you, Mr. Chairman. It's with great pleasure that I introduce to you and through you to the members of this Assembly two young people who are attending the University of Alberta. One of them is from the Wainwright constituency, Colin Oberg, who happens to be the nephew of the MLA for Bow Valley, and his friend is Christine Hrychuk, who is considering moving to the Wainwright constituency because of the MLA down there. I would ask that they rise and receive the warm welcome of this House.

Bill 37
School Amendment Act, 1995
(*continued*)

THE CHAIRMAN: Okay.

Any comments on the Bill? Are you ready for the amendment then? The question is on amendment A8 as moved by the hon. Member for Edmonton-Centre. All those in support of amendment A8, please say aye. [interjections]

The Chair would apologize to the hon. Member for Fort McMurray. We had no reason for haste, heaven knows, and would withdraw the beginnings of the vote on amendment A8 and invite Fort McMurray to add his comments to those of others.

MR. GERMAIN: Thank you very much, Mr. Chairman. I'm delighted that relatives of the hon. Member for Bow Valley are here tonight, because they will get to see their relative stand up and vote for some of the basic freedoms that are important to Albertans. They will see their member stand up and vote for schools selling assets at fair market value, heaven forbid, and they will see the hon. member stand up later and vote for freedom of information so that government documents can be scrutinized by the public.

[Mr. Herard in the Chair]

In any event, Mr. Chairman, dealing specifically with the amendment that has been brought forward, it is jarring and I must say to all Members of this Legislative Assembly somewhat bone rattling to see that we would actually in this Legislative Assembly have stooped so low as to pass a Bill that says that the government can sell something at less than fair market value. I want to reel off a list of assets that this particular government has sold at significantly below fair market value in the last few years. Can anybody help me with any of those on the list? Alberta liquor stores, \$50 million of losses; MagCan, \$150 million of losses. Are there any others? Burns. Gainers. All of those, and more to come. Now Albertans all across this province are going to have a Bill pass to law that says that the government can sell assets below market value. This is astounding. This is something they've been able to achieve for five years straight without any help from the Legislative Assembly, and now they're going to amend it.

So I want to say to all members on both sides of the Legislative Assembly: do yourselves a favour. Do us a favour. Give the Alberta public an opportunity to say that these folks are not as stupid as they look, to say they're not as dumb as they sound. Give them a chance to say that when an opportunity came forward, the Legislative Assembly struck out legislation that said that the government would sell assets at below fair market value. It is an astounding proposition that we would have that in any legislative Bill that comes before this Assembly, particularly since the minister has always been able to participate in property swaps between school boards outside of the disposition section, because the disposition section is for assets that are no longer required to be utilized for educational purposes.

So through the conditional program and through conditions that the minister has been able to put on the disposition of assets, that has never, I suggest, been a problem. There is no logical reason why this Legislative Assembly should vote to allow any school board and any minister of any government agency to by legislation sell property at below fair market value. That's like passing a Bill that says that we're going to allow 30 percent of the students who write social studies 30, Mr. Minister, to flunk. We're going to legislate that 30 percent of them can fail. We're going to legislate that this government can sell assets below fair market value. I don't want to be in that collection of voices that votes for that, so what I'm going to do, Mr. Minister and Mr. Chairman, is vote for this amendment. By voting for this opposition amendment, will the sky fall? No, it won't. Will people be subjected to scorn and ridicule? No, they won't.

8:50

When those hon. members go back to Bow Valley and to Vermilion and to Calgary, when the hon. Member for Calgary-Fish Creek goes back and someone at the door says to her: "I heard last week that you voted to allow the schools and the minister to sell schools below fair market value; you voted for that; you put it in the laws of Alberta," she'll be able to say to that person at the door: "No, ma'am; you're wrong. I voted to ensure that they sell assets at fair market value." The Provincial Treasurer is going to go to his constituency, and he's going to knock on the doors, and he's going to carry with him the wisdom of his department, and he's going to carry the hopes and dreams of the entire financial picture of the government of Alberta on his shoulders. People are going to say to him, "Mr. Minister, did you vote so that school boards and the Minister of Education could sell property below fair market value?" He's going to say, "No, sir; I stood up and voted to support the amendment that says

that school boards will have to get fair market value for property that they dispose of out of the educational regime." That's what this section is for.

Mr. Minister, I urge you to reconsider this, and I urge you to adopt this amendment. Historically you have never needed in the School Act permission to sell property below fair market value. I suggest that you do not need it now, and I further suggest to you that the public will not understand a Legislative Assembly that votes for this type of clause in a Bill. They will look at their elected officials in wonderment, and they will truly know that something happens to the brain power, the brains, the gray matter of individuals who come into this Assembly. How can we pass a Bill tonight that says that you can sell below fair market value? You may have all the legitimate and honourable reasons in the world for this section, but it doesn't sell. You know, it's a hunting dog that doesn't smell and doesn't track. It doesn't work out there in Fort McMurray, Alberta, which I represent. It doesn't work in Athabasca-Wabasca, where the hon. Minister of Family and Social Services works. It doesn't work in Grande Prairie. It doesn't work in Peace River. It simply doesn't work.

So let's put an end to the nonsense right now by voting on this amendment when the vote is called, and say yes to the amendment, which means simply that school boards selling property will have to get fair market value for their property. What's wrong with that?

Mr. Chairman, that concludes my comments on this amendment.

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

MR. WHITE: Thank you kindly, Mr. Chairman. I rise to speak on this matter from the perspective of the simplest of common reasons, that of common sense. Why would anyone ever want to sell property below fair market value? If someone on the other side could rise and give me three or four decent examples of why one would, then maybe this amendment need not be put, but that is not the case. We certainly haven't heard that. We haven't heard any reasons for it. Hitherto it has not been required in the Act, simply not required. Why would you specifically allow a minister under ministerial order to sell anything, particularly public property, below market value, market value being determined by what somebody is willing to pay.

Now, granted perhaps there are some assets that, wherever they are, either in a downtown core or somewhere else, they simply cannot find a market for. Well, if the market is not there, then fair market value would say that it's written down considerably. But that does not mean to say, the test being again common sense, that any member of this Legislature, particularly the minister, can then sell to anyone he wishes at any value. That's what the Bill currently says. It's ludicrous. There's a reason in this democratic society that laws are cast, and it is to protect the public, often from the government. That's why we have it in an open forum. That's why we have people in the galleries listening to this. Rest assured that if you asked these people that are up here, other than those that happen to be in government employ, I'm sure common sense would say: absolutely. It's ludicrous. Why would you ever, ever want to do that?

AN HON. MEMBER: Well, even the government employees would if they weren't afraid, Lance.

MR. WHITE: Well, government employees might be a little inhibited from speaking out on the matter, as we've well seen in

the past, but any of those within earshot can understand what fair market value is and why a government should be specifically restricted to seek that.

I have no understanding why and certainly the government hasn't put forward any cogent arguments to this side of the House to say why that provision is specifically included when it hasn't been in any other piece of legislation. As a matter of fact, the Municipal Government Act, recently amended, specifically includes that provision so that a municipality cannot sell its assets below fair market value. Now, I fail to see why that level of government is so different from this level of government. Please, please, if that side of the House can rise to the occasion and give this side of the House perhaps one, maybe two arguments for this amendment, then perhaps this side could understand from where it comes.

Thank you, Mr. Chairman.

THE ACTING CHAIRMAN: The hon. Member for Calgary-West.

MR. DALLA-LONGA: Thank you, Mr. Chairman. I just have a few words about this amendment.

MR. HENRY: Is this sound accounting principles?

MR. DALLA-LONGA: Well, we'll try that.

Mr. Chairman, I fail to understand as well why the words "at fair market value" were taken out. The concept of selling something for less than what the open market would be willing to pay sort of makes me question what the motives could be and makes me wonder why the government would want to have legislation that allows them to sell at less than fair market value. The definition of fair market value is embodied in principles of law, and there are court decisions on what is fair market value. Certainly, in the case of real estate, which is probably what this section would apply most to, I just can't think of any examples where the minister would want to get less money than what the market's willing to pay.

Certainly there may be a trade involved. Certainly there may be special considerations. As long as they're supported, I don't think there's any problem with selling, say, for a lower price to this buyer than that buyer because this buyer over here is going to do something else and it's going to enhance, say, the value of the community. But to just strike out those words and leave it by itself allows - and I'm not suggesting that this minister would necessarily do it. It might be subsequent ministers, because when we make up these laws, they're going to last for a long time. Hopefully this won't. There may be less than honourable reasons why we sell for less than fair market value. So I can't understand, Mr. Chairman, why we would want to do that. I mean, in business you would never see a clause like this unless there were very good reason, and that's our whole intent in bringing forth this amendment. In the absence of very good reasons, we're saying: why do you want to take this out? It just doesn't make sense.

9:00

We can say that we've had good examples of where we've sold things for below fair market value. We go, for example, Mr. Chairman, to the MagCan sale. Okay? I don't know if that was below fair market value or whether it was at fair market value. The price may have very well been fair market value, tax considerations aside, but the fact is that we don't know. The same thing is going to happen here on each individual little school that's sold. We won't know the details. The building is valued

at some value, and we sell it for less, and the public says, "Why?" We'll never know why. Now, is that open and honest government? I don't think so.

So, Mr. Chairman, I'm going to vote in favour of this amendment. I guess if the government insists on following through and putting this in there, they'll have to suffer the consequences down the road.

Thank you, Mr. Chairman.

THE ACTING CHAIRMAN: The hon. Member for Leduc.

MR. KIRKLAND: Thanks, Mr. Chairman. I stand in support of the amendment. I think it comes from a very basic, sound principle that we're dealing with here. There is no asset that is owned by the provincial government that in fact should have the legislation so placed that in fact there is opportunity or encouragement to sell below fair market value. Now, maybe I should commend the Minister of Education because he is bold enough to put this particular statement in here, because it's forthright. If we look at the Minister of Health or the minister of the environment, most of these sorts of decisions are going to in fact be made behind closed doors through regulation. So perhaps there is a positive there.

I would suggest, Mr. Chairman, that one of the roles of the government is to protect public assets. It is the citizens of this province that have paid for those schools, and they've paid handsomely in many, many cases. I would suggest that if you ask them if you should dump at below fair market value the assets that they have paid for and so long utilized, you would find them in opposition to that.

I would also suggest that there's a contradiction here. When you look at the Municipal Government Act – and this is the government that says they have great confidence in municipally elected officials – the Municipal Government Act certainly outlines very clearly how municipal governments can dispose of their property, and it's not below market value. This contradiction is just one of those many contradictions that we see, Mr. Chairman. To even suggest that we put this in legislation, as the hon. Member for Calgary-West indicated, only has a tendency to conjure in your mind that there must be some underhanded situation that is being dealt with here. I think that when we're looking at protecting public assets, that's the wrong approach to take.

Maybe, Mr. Chairman, what we're dealing with in this particular situation is a government that has practised bad business tactics for so long that they no longer recognize good ones, and this is another one of those bad business practices, as I see it. It's public property; it should be sold at a fair market value. It's that simple and that plain. For a party that purports to be aligned with business and have business acumen, certainly they're not demonstrating it with their supposed, if I'm reading it correctly, opposition to this amendment.

MRS. ABDURAHMAN: I stand to speak in favour of this amendment. Once again we're seeing doublespeak demonstrated by this government. We look at Bill 40, the Government Accountability Act. I was looking at *Hansard* of Wednesday, May 10, the evening sitting, when the Provincial Treasurer was acknowledging that the amendments brought forward by the Official Opposition indeed were good amendments and was taking some sound advice on making the Government Accountability Act a stronger Bill. Yet we go to Bill 37, and in defiance of

accountability in government, we're going to get into more fire sale prices. I was listening to my colleague from Fort McMurray, and he was citing more examples. I can think of the lands in northeast Edmonton being sold off at fire sale prices.

Now, it was bad enough, Mr. Chairman, that this Progressive Conservative government ran up a \$30 billion debt. Now they're selling off our heritage at fire sale prices and under fair market value. After all, whether it be a school building, whether it be lands that were bought by this government in the restricted development zone or in the northeast Edmonton zone, when they thought they knew better than the business community, for future development or whatever they had up their sleeve – now we're back here in this Legislature after a decade and a half of disasters, where there was no common sense prevailing, with a Bill coming forward allowing them to sell off the future of future generations at less than fair market value. That's not acceptable by any stretch of the imagination.

Not only are they going to sell off our assets at below fair market value; they don't even have a decent methodology of accountability in this Bill for local jurisdictions where the Auditor General can go in and go right through that process and see how those dollars have been expended. Basically, based on this, what we'll be seeing in Public Accounts is the same example, although it's slightly improved over five years ago or three years ago. There is a little bit of light at the end of the tunnel, but it's nowhere near enough when you talk about accountability.

I would suggest, Mr. Chairman, that in Britain under Maggie Thatcher they didn't learn. They sold off the assets of future generations in Britain. We'll be seeing it in health as well. I'll use an example. In the community half a hour from where I was brought up on the farm, there was the most beautiful asset. It was the Creighton Royal hospital on the most beautiful grounds. It was a psychiatric hospital, a world leader, not unlike Alberta Hospital Edmonton when it came to psychiatric care. It was gifted to the Crown. Under Thatcher and now Major they've sold that asset off that was gifted to the Crown. Now, that's unconscionable.

We're seeing the same thing happening here in Alberta. There's no originality in governance in this province. All we're doing is copycatting, and we're seeing that in Bill 37. When you want to balance your budget and make sure that you've got the finances to do it, we sell off all the assets for future generations. That's what's happening in Bill 37, and that's what we're going to see under health care as well.

Thank you, Mr. Chairman.

THE ACTING CHAIRMAN: The hon. Member for Calgary-North West.

MR. WOLOSHYN: Hey, Frank, be different. Say something sensible.

MR. BRUSEKER: Absolutely. Yeah.

Mr. Chairman, if I . . . [interjections]

THE ACTING CHAIRMAN: Order please. [interjections]

AN HON. MEMBER: Tell them. They're the ones that are yipping and yipping.

THE ACTING CHAIRMAN: The yipping I'm hearing is coming from over here. Please. Order please.

MR. BRUSEKER: Am I recognized, Mr. Chairman?

THE ACTING CHAIRMAN: Yes. Thank you.

MR. BRUSEKER: Mr. Chairman, I rise to support the amendment put forward by my colleague from Edmonton-Centre. An interesting paradox exists here. If you look at section 20, it proposes to remove the words "at fair market value." Now, I have to believe, I have to hope I guess – I don't believe it, but I have to hope that they're doing this with good intentions. But I honestly believe that the government has put this in because they don't really understand the marketplace. I think that's probably what's really happening here. Fair market value suggests that you put a property up for public tender and ask for bids on the property, and whatever comes in then determines what the fair market value is. That fair market value might be \$10,000, might be \$10 million – who knows? – depending upon the property. But what you do is put it up for public tender.

The minister stands and he says: well, I want to be able to have this in here so that I can transfer a property from one area to another. Well, Mr. Chairman, you can't look at this in isolation, by itself. You can't look at this particular clause in isolation.

9:10

I want to refer members back – and I'll tie this together for you, Mr. Chairman – to amendment 11, because amendment 11 says that the minister

- (a) may permit a board, or
- (b) may require a board

to use money referred to in subsections (1) and (2) for a particular capital purpose or a particular capital project.

So what could happen if we leave both of these sections in here, which is why it's important to delete this particular one, is that the minister could come along to a school board like Edmonton separate, for example, that has a two and a half million dollar capital reserve fund, and the minister could say, "Build a school over here." He could direct a school board to do that under section 11.

Then he could come along and, if we leave this section in, he could say: "Son of a gun. I've decided I'm going to transfer that school from one jurisdiction to another jurisdiction because now we don't need any transfer under fair market value." So not only will we get into the micromanagement of what's happening within the schools, but we can in fact get the Minister of Education deciding where schools will be built and who is going to transfer them from where to where. That's what could happen if we leave both of these sections in there.

In fact, we could have a minister walking around, if you will, deciding where the money will go, who will spend it, how it will be spent, and in which jurisdiction schools will remain. Combining the two of them together suggests that schools could be built anywhere at any time as the minister sees fit, based on political expediency. Now, you may say never, ever would we see buildings being built on the basis of political expediency. I think history will bear out that that's certainly been the case many, many times in the past.

The other peculiarity that I want to point out, Mr. Chairman, is that section 20 is proposed to be amended by striking out the words "at fair market value," or removing them from the section. The amendment says: let's leave those words in there. Well, the message is that on one hand if the board wishes to dispose of a property, regardless of what that property was constructed for in terms of initial construction costs, once the board decides that they

no longer need that property for educational purposes, then the minister can dispose of it under conditions that the minister prescribes. That's what's in section 20.

If you look at the section directly above that, there's accountability if the board wants to spend more than half a million dollars. In section 19 it says that

the board shall give public notice of its intention to construct, purchase or lease the building if the estimated cost of construction is greater than half a million dollars, \$500,000. So on one hand you could have public notice being given for the construction of a building, a building could be constructed, and the minister could declare that that building is surplus and then turn around and hand it over to someone else.

That's what all of these different sections combined allow the Minister of Education to do under these various sections, 11, 19, and 20. For that reason, in order to prevent any under-the-board, behind-the-scenes changing of hands of property, which is what this allows – if you look at the rest of section 20, there is no requirement for any kind of public disclosure, no requirement for any public notice. It simply says that

the Minister may in writing direct the board to dispose of that property . . . subject to those terms or conditions that the Minister prescribes.

That's what it would say if we delete the words "at fair market value." So by deleting those words, there is no accountability process other than what the minister says. There is no accountability process for where the money is going to come from under section 11. The minister can direct the money to be spent, the minister can direct the property to be transferred, all of which is secretive, behind closed doors in the cabinet and goes directly against what the government has been crowing about, which is freedom of information legislation.

There is no accountability here, and a property could change hands, dollars could be raided from an account, construct a building, shift it over to another school jurisdiction, and there is no accountability and no way for the public to know what's going on. For that reason alone, regardless of the potential dollars and cents being lost, which could also be significant, all members should vote to support the amendment as put forward by my colleague from Edmonton-Centre.

THE ACTING CHAIRMAN: The hon. Member for Lac La Biche-St. Paul.

MR. LANGEVIN: Thank you, Mr. Chairman. I have to rise this evening to speak against the motion, because I was challenged by the Member for Fort McMurray. He said: I would like to have one member stand up and give us one good reason. I believe that section 20 as proposed in the amendment is a good section for this Act. If we don't remove the "fair market value" from the Act, then the minister and the school board are compelled to have fair market value, and it ties their hands where they might want to dispose of the school or the property for other uses.

I can tell you that in the 1960s, when the Social Crediters had built too many schools in Alberta, many of those schools were disposed of for community use. In my own riding I know of six or seven communities which did not have to come to the government for CFEP grants or lottery grants to build a community hall because they approached the Department of Education, they bought those schools at a reasonable price that they could afford, and it became for them a senior citizens' centre, a community hall, a legion hall, an ag. society centre. These buildings often, if they were not used by a community – you cannot get much

money as fair market value because of the structure, the walls and the partitions of schoolrooms. But for a community centre they use the gym for a hall, they use the kitchen for catering, and they use a classroom for . . . What happens is that you can serve a very useful purpose for the community.

Often if you sell it at fair market value and you sell it to some type of industry, you might put the municipality in financial hardship. Often you can have a school where the services to that building are not proper for a certain industry that it might be used for. Then after it's bought, they're going to come to the municipality and ask for bigger services – water and sewer lines – and different services to the community – roads, places for loading docks, pavement – and it's going to put a burden on the municipality.

Also what happens when you dispose of property – and it happened in my community when I was mayor of the town of St. Paul. We had two properties that we negotiated successfully with the government to acquire for the community, and in the community's interests and because of zoning and because of location, the only thing that this property could be used for was community use. Otherwise you would have had to change the zoning and you would have infringed on all the neighbours who had built in that area according to certain zoning. I think you have to be very careful to respect what was done in the past.

For these reasons, I believe it is an excellent suggestion that the minister and the board at their own discretion can look at the community, can look at the needs in that community, and can decide if they want to sell it below market value for some community use. These communities that use it for their own halls then won't have to come to the government for a \$200,000 or \$300,000 CFEP grant to build their own halls, because they can use the gym of that school and they can make use of an existing building. For these reasons, I believe it's an excellent suggestion. I know and I have trust in the government that when the community does not need it, at that time they will tender it on the market, and it's going to be sold for whatever they can get at market value.

Thank you, Mr. Chairman.

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

MR. SAPERS: Thanks, Mr. Chairman. I appreciate the evenhanded way in which you're regulating this debate this evening. As my colleague from Fort McMurray before me, I am now, too, waiting for a member from the government side to stand up and give us one good reason why it is that this amendment shouldn't pass. I would particularly like to hear somebody from the government define fair market value, because I think we're getting a whole new definition of fair market value, and perhaps somebody ought to explain this to this business-minded government. I always thought fair market value was what was fair according to the market, not what . . . [interjection] Exactly, Fort McMurray: based on the zoning. The mind boggles, and I'll be looking forward to rereading that argument in *Hansard* to see whether or not there was any sense to it at all.

The amendment to section 187(3) I believe is one of the longest standing unamended sections of the School Act, and it's been there for good reason and has served the people of Alberta well for a long time. It's there to protect the public interest and to ensure that the disposition of assets is in the public good, in the public interest, not to serve the purposes of just a few or to be part of just some government members' hidden plans or secret

agenda. I suggest that there's a potential for that here, Mr. Chairman, and I just wonder whether or not this suggestion by the government, that fair market value isn't necessary any longer, has anything at all to do with this government's drive towards privatizing education. I just wonder whether or not it might have anything to do with charter schools or for-profit education and where we might see perhaps some friends of the government trying to cash in on vacant school property.

9:20

You know, we underfund schools. We force parents to put their money into school systems that they might not choose to support. Then the next thing you know, you've got charter schools happening, and properties are up for sale because parents can't send their children to the schools of their choice. Then you've got some friend of the government, who might have made a sizable contribution to somebody's political campaign, wanting to cash in and buy a school property at a fire sale price. I just can't help but wonder, Mr. Chairman, and I sure hope that that's not the case. Unlike the Member for Lac La Biche-St. Paul I don't trust that the government's got the best interests of the people of Alberta at heart in this regard; in fact, quite the opposite. If they had the best interests of the people and the continuing best interests of the taxpayers at heart, they wouldn't be trying to eliminate the notion of fair market value.

I must say that I give the Minister of Education some credit. Certainly the minister in bringing this legislation forward is not hiding his contempt for the taxpayers of Alberta quite as much as, let's say, the Minister of Health is, because what we see in disposition of health assets is that it can all be done by ministerial order, behind closed doors. They didn't even come forward, Mr. Chairman, and take the notion of fair market value out when they talked about disposing of health care assets. You can sell a hospital now in this province simply with a stroke of a pen if you know the minister. It all just needs her permission. At least here we have something a little more up front. It's actually in the Bill. It's now clear to all taxpayers that this government is not in fact interested in ensuring a fair return for public investment. In fact, they don't seem to care about that at all. But like I say, I congratulate the minister for not hiding his contempt as completely as some of his colleagues.

I would suggest that the amendment as proposed by Edmonton-Centre, to strike section 20 of Bill 37, is the only thing to do. Anybody who does support the striking out of "fair market value" I think also supports squandering taxpayer dollars, and maybe this is exactly why we have a \$32 billion accumulated debt . . .

MR. BRACKO: How much?

MR. SAPERS: That would be \$32 billion, St. Albert.

. . . because it was thinking like this over the last 20 years that has let that debt grow and grow and grow again. I thought the Premier said that we were under new management and that that was then and this is now. Well, you know what? What was then is now back. I guess it's back to the future, because what we see here is more bad business by a business-minded government not acting in the public interest at all.

I will be voting in favour of the amendment as proposed by Edmonton-Centre, and I would hope that all members do the same.

THE ACTING CHAIRMAN: The hon. Member for Edmonton-Norwood.

MR. BENIUK: Thank you, Mr. Chairman. I rise in support of the amendment. There are some very fundamental issues that have to be addressed here. We are talking about buildings that are owned by a local board, buildings that were paid for from local taxation. Just compare if instead of talking about schools, we were talking about a municipal building. That minister is suggesting that we approve the sale of Edmonton City Hall for \$1. That minister is suggesting that we approve Calgary City Hall being sold for \$1. Who would it be sold to? To the person that the minister is suggesting would have the right to buy.

Last year, Mr. Chairman, that minister did a tax grab, seizing the right which had been held by the local school boards to tax, tax money that had been used to build buildings, schools, et cetera, in this city. Now that minister is going one step further and wants the right to seize those buildings below market value. Market value is what a buyer and a seller at any given time will agree is a fair value. We are being asked to make sure that that minister has the right to determine a value. It could be 1 percent below market value or it could be 1 percent of market value or it could be for \$1. We are talking here of billions of dollars worth of assets throughout this province owned by the local school boards, paid for by the local taxpayers in this province. That government lost billions of dollars. It lost billions of dollars. The Conservative Party that was in power lost billions of dollars. Now they are trying to seize the assets of the local school boards. [interjections]

THE ACTING CHAIRMAN: Hon. members, order please. Through the Chair.

MR. BENIUK: There are two ways property can be seized: at a point of a gun or the way that minister wants to do it, forcing through legislation to give him the power to seize the assets of the local school boards.

The issue that every member in this Legislature has to ask themselves: do you support the principle being established by that minister? Should this Bill be passed and this amendment be defeated, that gives the right to the government to take over property owned by other levels of government, municipal or school boards, and hand it over to this government at the value that this government determines, which could be \$1? This is totally unacceptable. It goes against everything that is basic to the very concept of private ownership, to the very principle of property ownership that goes back centuries. This government is very, very, very antibusiness in this regard, in setting in process the power to seize through legislation property of others; in this case, the school boards. This is totally unacceptable.

I would urge all members to support the amendment.

THE ACTING CHAIRMAN: The hon. Member for Calgary-West is rising on a point of order.

MR. DALLA-LONGA: Thank you, Mr. Chairman.

THE ACTING CHAIRMAN: Are you rising on a point of order?

MR. DALLA-LONGA: No. I'm rising to speak.

THE ACTING CHAIRMAN: Well, you've already spoken to this . . .

MR. GERMAIN: It's committee. He can speak as many times as he wants.

THE ACTING CHAIRMAN: Okay. I'm sorry; I take that back. But you have already spoken.

MR. DALLA-LONGA: Thank you, Mr. Chairman. We feel so strongly about this that we feel compelled to rise again and again, and we will rise again and again to speak to these amendments.

You know, Mr. Chairman, I get angry when I look across and I see the Member for Stony Plain smiling and laughing, when he sat on this side doing the same thing that we were doing while the government was squandering our money. I've got to tell you, he did nothing at that point.

THE ACTING CHAIRMAN: Hon. member, excuse me. Please speak to the amendment. Thank you.

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

THE ACTING CHAIRMAN: The hon. Member for Calgary – I'm sorry; Edmonton-Centre is rising on a point of order.

MR. HENRY: Calgary wouldn't be happy about that, sir.

Point of Order Questioning a Member

MR. HENRY: I'm wondering if the hon. member would entertain a question. For the edification of the Member for Lac La Biche-St. Paul I'm wondering if the hon. member with his accounting background could explain the difference between fair market value and the price that you can get for something.

MR. DALLA-LONGA: Patience. I was just getting to that, Edmonton-Centre.

9:30

Debate Continued

MR. DALLA-LONGA: That's another thing. Listening to the Member for Lac La Biche-St. Paul about why he's speaking against this amendment, he says: well, the building wouldn't be worth anything else. Well, then it's not worth anything and we don't have to worry about fair market value. Then during his deliberation he talks about: we successfully did that; we successfully did this. Well, if you were so successful, why do we want to change this thing? Why are you in favour of changing this thing? It didn't take long to get indoctrinated over there, did it? It must have been the cookies or something.

This is some of the oldest legislation in the School Act. It is fundamental. It is like automatic wording in any document that's done in a business transaction. This government purports to be a business-minded government, yet they want to go and wipe out something that they still haven't come forward with, notwithstanding the Member for Lac La Biche-St. Paul coming up with his supposed explanation of why we need to change this.

No one has ever had a problem with donating a school to a senior citizens' home. As a matter of fact, no one even had a problem when we converted an old school to the Premier's office south that only government members could go to. There was no problem. At that time we thought everyone would get to use it, that all Albertans would have a fair opportunity to use it and we wouldn't just turn it into a clubhouse. There was never any problem with converting a use for some other good social exercise.

The fact of the matter is, Mr. Chairman, that what we are concerned about is where it goes for some purpose other than which it was intended, to some person who might derive value.

While the building might not have any value, the land will have value. I can tell you, hon. Member for Lac La Biche-St. Paul, McDougall school might not have been worth much, but the land that it was on was worth something. There are a lot of schools now that are not worth anything, but the land they sit on is worth something.

Anyway, it doesn't seem to be sinking in, Mr. Chairman, but that's all right. That's all right. Voters will remember that the Member for Stony Plain, for that matter, and the Member for Lac La Biche-St. Paul will vote against this amendment and will allow a government to sell a building, to sell a school and not have to answer to anyone as to why they sold that school. I'm not talking about giving this school to some senior citizens or converting it into a community hall. I don't think anyone's ever had any serious problems with that. At least if they had problems, it wasn't with the price. But what we are concerned with is where these things could go for the betterment of someone else to the detriment of Albertans in general.

[Mr. Tannas in the Chair]

You know, Mr. Chairman, it just doesn't seem like they care. It just doesn't seem like they're interested in providing reasons. Maybe they just want to make their lives simpler, so they don't have to answer any questions. Well, that's a poor excuse for drafting legislation such as this. It doesn't happen in business. You don't expect others to operate that way, so why, just for the sake of maybe making your job a little bit easier, are you going to go out and possibly sustain losses, possibly get back less for what value Albertans have? Remember, the government is just a custodian of the assets for Albertans. It's not the government's assets; it's Albertans' assets. Why would you go and put in a provision that would cause you to get less than what Albertans would be entitled to?

Thank you, Mr. Chairman.

MR. JONSON: I would like to try and be of assistance to the hon. members across the way. I would like to just repeat some things that I said earlier and perhaps elaborate a little bit. This section, Mr. Chairman, does not mean that the board sells property below fair market value to a source in the private sector, which seems to be what is being referred to this evening. It means, though – and I've said this before – that if one school transfers from one board to another, the receiving board of course pays the transferring board the board's local costs, the costs incurred by those taxpayers.

The important thing here, Mr. Chairman, is that the taxpayers of this province do not pay twice. Given that the taxpayers of the province have investments of a substantial nature in the vast majority of these buildings if not all, it's important that there is a return based on their local cost, but we should not be charging a market value where there is a transfer from one school board to another. These people that have spoken this evening I'm sure are interested in the welfare of the taxpayers of this province . . .

MR. GERMAIN: A point of order.

THE CHAIRMAN: The hon. Member for Fort McMurray is rising on a point of order, if you'd care to cite.

**Point of Order
Questioning a Member**

MR. GERMAIN: Thank you, Mr. Chairman. Pursuant to the rules, I wonder if the minister would entertain a question.

THE CHAIRMAN: Mr. Minister?

The minister has indicated yes. You're talking about *Beauchesne* 482, I'm sure.

MR. GERMAIN: Yes, thank you, Mr. Chairman.

Debate Continued

MR. GERMAIN: Mr. Minister, would you agree that if one school board pays the other school board fair market value for a school, the taxpayers have not paid twice because the receiving school board is also doing governmental work with the money that they receive?

MR. JONSON: Well, no, I do not agree, Mr. Chairman. Since the hon. Member for Fort McMurray has arisen and rose at some length earlier, he above all members in this Assembly, I can assure you, should be out front and centre supporting this amendment as proposed by the government to the School Act. I don't know how long he's had the benefit of living in the fine city of Fort McMurray, but he should check his history a bit. He should also check what is going on right now in terms of – and I'm getting onto this in a minute. He should check the fact that when it comes to a school board wanting to dispose of a property, sell a property, which is their decision, to an outside source, then we are quite careful in Alberta Education to follow the disposition of property regulation, which requires tenders, which requires that the availability of school property be made known and it be tendered and, as determined by the tenders coming in, sold at market value. That's something that we adhere to and will continue to adhere to in the future. This disposition of property procedure will continue in place.

Just to return to what I was saying earlier, in answer to his question, the school property, be it owned by board A and being transferred to board B, has been paid for. It has been paid for with a certain percentage from the local tax base of that particular school board, and certainly that particular school board should be compensated for the money it has put into that building if it is going to then benefit school board B. Certainly when we are looking at school buildings across this province, which in the vast majority of cases, almost overwhelmingly, have been financed in good part by the taxpayers of this province, I can see no reason – this is why the amendment is here – that the taxpayers of school board B should have to pay for it again. That's why this is here.

THE CHAIRMAN: The hon. Member for St. Albert.

MR. BRACKO: Thank you, Mr. Chairman. I rise to speak in support of the amendment. Taxpayers have spent a lot of money to build schools, to build other facilities in the province, and now buildings can be sold. I give you one example in central Alberta. A school was built for political expediency, to buy votes, and seven years later the building was sold to a farmer to be used as a granary. It probably wasn't even paid off yet. This is what the residents of that area have said: "Used that for a granary, and the debt we're still paying off for a number of years." This could continue to happen, so we ought to make sure that the taxpayer's dollar is wisely used and this doesn't happen.

We see that the debt of these buildings will carry on and taxpayers will pay tremendous amounts, as you pay two or three times the cost of a building. The schools should have been built and paid for as they were being built instead of putting on mortgages. So we've got to make sure that the taxpayers' money

is used wisely and efficiently and that these buildings aren't sold to friends of the government at fire sale prices and everyone loses, that Albertans lose on that.

I encourage every member of the House to support this amendment.

9:40

THE CHAIRMAN: Okay. The hon. Member for Calgary-West.

MR. DALLA-LONGA: Thank you, Mr. Chairman. I'd like to thank the minister for responding to our concerns. As I said before and as I think some of my other colleagues said, we don't have a problem with a building being sold at less than fair market value from one school division to another or from a particular school division to, say, a senior citizens' group. That isn't our concern. Our concern is where maybe it gets sold to a farmer or it might get sold to someone who decides to use it for commercial purposes. That's where our concern comes in. It is unbelievable that we can't come to some sort of amendment then. If that's the part that's holding this thing up, if that is truly the reason that the members on the opposite side won't agree to it, well, I'm sure I could talk my colleagues into amending this amendment – and maybe that's what we'll do – to say that where it is used for charitable purposes or where it's transferred to another school division, then it can be transferred at less than fair market value. Or where it's converted into a Premier's office south, then it can be transferred at less than fair market value. But where it's going to be transferred to someone who's going to use it for commercial purposes or some other purpose I can't really think of right now, then it has to go at fair market value. It's got to be that way.

Thank you, Mr. Chairman.

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

MR. HENRY: Thank you very much. Just briefly I want to close debate on this amendment, Mr. Chairman. What the record very clearly shows is what I said at the beginning when I made this amendment, that the amendment proposed by the minister does not do what the minister is saying it does but in fact does much more in terms of future interpretation. The other point that hasn't been made clearly in debate here is that this will be done, we assume, by ministerial order, which we already know the government doesn't want to have all published on a regular basis, because they've denied motions for returns.

With those comments, Mr. Chairman, I'd call for the question.

[Motion on amendment A8 lost]

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

MR. HENRY: Thank you very much, Mr. Chairman, and thank you very much to colleagues, especially on this side of the House, for that most stimulating, intriguing debate. [interjections] Speaking up for taxpayers.

Mr. Chairman, I'd like to bring members' attention to section 29(1) of the amendment Act, which refers to section 67 of the School Amendment Act, 1994, which was passed last year; i.e., Bill 19. I won't go into all the details here, but very clearly in terms of the technicalities what we have here is an amendment that will define, again in terms of what used to be called separate school supporters, who is eligible to have their taxes directed to that system and vote in that system and who is not. The one group that will be left out by this particular section are those who

choose perhaps this year to send their child to a Catholic school or a separate school but indeed are not members of that faith. I would like to give you an example of that. We have an opted-out school division, the Calgary Catholic school division. That particular division operates a number of alternative programs. One of the alternative programs they run is the Calgary Jewish Academy, and very clearly the vast majority of people, if not all, who would want to send their children to the Calgary Jewish Academy would indeed be members of the Jewish faith and not of the Catholic faith.

The way this section is worded and the dates that are used in terms of this particular section, using the dates in terms of determining what is assessable for separate school supporters and what is not in terms of separate school assessment, if somebody from that community decided this year to send their child to the Jewish Academy, then they wouldn't be able to vote for the Catholic school board nor would they be able to send their taxes to that system, even though, Mr. Chairman, all logic would dictate that if you're sending your child to a system and if the government wants parents to be more involved in that system, one would think that they would be allowed to send their taxes to that system and vote in that system. What this has the effect of doing is having a cutoff which allows those who are already assessed for separate school support to stay but does not allow any new people who wish to join that arrangement. I think this is regrettable. The effect of it is to create a limitation in terms of the growth of the assessment base for Catholic school divisions.

To that end, Mr. Chairman, I think this is wrong. I would like to propose an amendment, that I will forward to the table. The amendment would strike out section 29(1)(b), thereby removing the requirement that those properties that were not on the assessment rolls by May 21, 1994, could designate, even though they weren't Catholic, their property to the Catholic system, and it not just be said that all other property will go to the public system. I invite comment.

THE CHAIRMAN: The Chair would indicate that this amendment to section 29(1)(b) is A9 on our numbering system and that it carries with it the required signatures. We're asking the pages to pass them around. I think we have a sufficient number of people who have received the amendment which the hon. member has moved.

The hon. Member for Edmonton-Glenora.

MR. SAPERS: Thank you, Mr. Chairman. I stand to speak in favour of this amendment. I believe that Bill 37 should be amended by striking out section 29(1)(b). I feel this way because I think this is a discriminatory section of the government's proposed Bill 37. It's also something that is not just academic but in fact something that strikes personally.

It seems to me that if my wife and I make the decision that we would like to support a separate school, particularly the Jewish Academy in Calgary or another such school, we should be able to do that. We should be able to direct our tax dollars there. The fact that we are in an interfaith marriage should be no business or concern of the government. I cannot understand why the government would want to include such a discriminatory and some might even say a bigoted kind of section in the School Act. I can't imagine what purpose it serves. I can't imagine that the Minister of Education would be in favour of this kind of discrimination. I can't imagine that the government would be against

these kinds of choices being made by parents on behalf of their families, their children, and their communities.

9:50

It seems to me that this is a wrong-minded section of the Act. We've seen many flaws in Bill 37, but this is one of the ones that I find to be most frustrating, because it's of no minor consequence to families that are trying to make choices in terms of either heritage- or faith-based education, and they would like to be able to support that education. There could be lots of reasons why at one point in a child's life they would like to see their children educated in one system and at another point in a child's life, in another system. It seems to me that when you're dealing with interfaith marriages, a particular sensitivity to the children should be in evidence. We see that sensitivity sadly lacking.

Mr. Chairman, I've heard absolutely no justification for this section whatsoever. It think it is incumbent upon the Minister of Education or other members of the government to make a watertight argument for this section, because if one cannot be made, then I would suggest that the onus is really on the government to accept this amendment. If in fact there may be in the future some reason for this kind of a section to be in the School Act, then perhaps the government could bring that forward at a subsequent time, after there has in fact been some public debate and consultation on this.

I know that in the communities that I visit and the communities that I talk with, Mr. Chairman, there is absolute anger and outrage at this particular section. I've had people speak in the harshest terms about how they feel discriminated against by being told that the government now wants to meddle in the very personal choices of how families have their children educated and the school systems that they would choose to support. So unless that watertight argument can be offered, I would suggest that the best thing that the Minister of Education could do would be to stand and recommend to his caucus that this amendment be supported, that section 29(1)(b) be struck from Bill 37.

Thank you.

THE CHAIRMAN: The hon. Member for Calgary-North West.

MR. BRUSEKER: Thank you, Mr. Chairman. I, too, want to support this proposed amendment from the Member for Edmonton-Centre. I suppose the only positive thing I can say about this is that it's consistent with the government's power grab with respect to property taxes.

If we consider the constituency of Calgary-North West, Mr. Chairman, there are many new homes being built and developed in my constituency, in new communities that weren't even named, that did not even exist a scant two years ago, in fact up to May 25, 1994. A community directly to the west of where I live, Scenic Acres, is called Tuscany. Now, Tuscany did not exist on May 25, 1994, but by this Act coming into force, if it is left as it is proposed in Bill 37, those individuals who purchase a home in the community of Tuscany will not have the right to dedicate their taxes to either school board. They will automatically default to the ASFF, the Alberta school foundation fund. Under this, because they did not exist and they were not assessable prior to May 25, 1994, they will not have the right to direct their taxes either to the public or to the separate school board. They will automatically default to the Alberta school foundation fund, and they will be denied the right to make any choice whatsoever to support any particular school board.

Now, the minister argues: well, the dollars will follow the kids, and it doesn't really matter anyway. But ultimately what will end up happening is that over time, because another section here says that once the ownership of the property is transferred, then the new owners will also not be able to direct where their taxes will go, because for the purposes of this piece of legislation they will be new owners and will similarly be disenfranchised. Therefore, if this Act is passed and remains in force for some period of time, through the natural evolution of people moving or people dying and a new owner becoming the registered owner of said property, eventually in this province no taxes will be going anywhere other than to the Alberta school foundation fund. If we continue under this and carry it forward into the future, over time all property taxes eventually will be going to the Alberta school foundation fund.

What will end up happening is that as soon as we put in this date of May 25, 1994, any property transferred after that date, any new property – and I use that term because obviously you can't create property – such as those areas in Calgary-North West that are created under new rezoning and are divided up into lots and so forth will also not be able to direct their taxes to anything other than the Alberta school foundation fund. The end result is that certainly Catholics will be disenfranchised from their constitutional right to direct and support their property taxes.

Now, I see the minister shaking his head, and I certainly look forward to his explanation to the contrary, but my understanding of this particular section is that as time goes along, more and more individuals, as they move, as the title of a property changes, will send . . .

MR. GERMAIN: It has to be. Nothing else makes sense.

MR. BRUSEKER: Exactly. My learned colleague, who is knowledgeable in the matter of laws, tells me that that's the only interpretation that flows from this, that all properties, if they change hands after this date, May 25, 1994, will continue to change hands.

Well, obviously the question, then, that has to be asked is, "What's so special about May 24, 1994?" Why is it that that date is suddenly magical? Why indeed would the government move such an amendment as we see here in Bill 37 at all, regardless of the date, other than simply a massive power grab of control of the system by this government, that we've seen, that has nothing to do with the issue which the government originally set out to achieve, which was to balance the budget? If you have control of the dollars, Mr. Chairman, certainly you can have control over the system. So many other sections of this Act that we've been debating earlier this evening deal with specifically new control, new ways that the minister will have the ultimate authority in making decisions.

Therefore, Mr. Chairman, this particular section that the Member for Edmonton-Centre proposes to delete is in fact an issue not only for the Catholic school boards that have a right that is constitutionally entrenched but also a concern for public school supporters, because they will soon no longer be able to direct their taxes anywhere other than having them snaffled by the ASFF. For that reason, I support the amendment by my colleague for Edmonton-Centre.

Thank you, Mr. Chairman.

THE CHAIRMAN: Okay.

The hon. Member for St. Albert.

MR. BRACKO: Thank you, Mr. Chairman. I stand in support of this amendment. The monetary aspect, or the tax aspect, has been dealt with. My concern, of course, is with those who choose to have their children go to another district or go to the Catholic system, for example. There are many reasons for that. For some, it's the spiritual values taught by the Catholic system. For others, it may be that they feel it's the best system to go to, or vice versa. Sometimes a student may be having problems in one system. They want the flexibility to move them to the other system. This happens in St. Albert and other places on occasion, and many times a move allows the student to be more successful.

The problem I have is that when you do this, when you change schools or send them to a different school system, they're not allowed to vote. The democratic right is taken away from them. Any concerned parent needs to be able to influence that school system, to have the values that they have used in that system. This is taken away, the democratic right, when they can't vote for the school trustees of their choice or any trustee, for that matter, in that district. It's important that this happens, that democracy is not lost. You start to lose democracy in a small way. Pretty soon it gets bigger and bigger and soon, like we saw in Germany, the democratic system is lost and a dictatorship takes place. Now, you may say that's far-fetched, but it has happened.

We want to protect the rights of those who choose to move into another system, to protect Catholic rights, where the student is educated to the total person: spiritual, physical, emotional, intellectual. In some systems, the spiritual is left out, and there's a vacuum. So it's important that parents are allowed to choose the system of their choice and be allowed to vote for the trustees in that district. For that reason, Mr. Chairman, I strongly ask every member to support this amendment.

10:00

THE CHAIRMAN: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you very much, Mr. Chairman. Once again I rise to encourage and invite the Minister of Education to think about the jarring impact that amendments such as he proposes tonight have on groups in the province of Alberta that feel threatened and feel under attack by the minister's legislation. Now, the minister can rationalize. He can say, "Well, every student gets the same amount of funding." But various Catholic school jurisdictions in the province of Alberta have said that they want to control their funding, collect their own funds and spend their own funds, without ministerial strings attached. For many years in this province they have delivered a quality product, a quality education product, and there's no reason for the minister to move forward with this ideologically based amendment at this time.

Now, what about the person who wants to send their student to a Catholic school? Should they have the right to vote for trustees in that Catholic school district? I mean, I ask the minister rhetorically: why take away somebody's right to vote? Why take away their right to vote for a trustee that's going to govern the way in which their students are educated? That's the impact of this particular amendment. This is ideologically driven, and it is unnecessary. It creates unnecessary divisions between the Catholic taxpayers and the public taxpayers in the province of Alberta.

I did not understand, frankly, the minister's nodding and negative head shaking when the hon. member from Calgary was suggesting that by freezing the separate school levy as at May of 1994 – surely you don't mean that if a property is taxed separately in May of '94, if two years from now it's sold and a public

supporter buys it, the tax date will be frozen back to May of '94. Obviously there's going to be a new assessment, and the hon. member was absolutely correct. You're evolving as you do any time in legislative drafting when you peg a date; it's a grandfathering. Because of the effluxion of time and the change of dates property will cease to be taxable under this particular regime, and the taxes will inure directly to the control of the provincial government.

There is nothing wrong with the amendment to strike out this particular section of the School Amendment Act. You don't need it. It does nothing for you. All it does is alienate and antagonize groups that should be working as part of the solution to the educational problems, not constantly fearing that every time they turn their backs, every time they close their eyes for a moment institutions and concerns and principles that are dear and important to them feel threatened.

I want to call on the hon. Member for Calgary-Currie to stand up now in this Legislative Assembly and fight for the Catholic school board, fight for them. They feel strongly about this. Surely their concern and the depth of their concern justifies the hon. member supporting them. There is no reason that the hon. member from Grande Prairie can't stand up and support this amendment, which would take this away. There's no reason the hon. Member for Medicine Hat can't take this away.

The Premier was noted to say publicly that his ideology is a financially driven ideology, not a sociologically driven or a religiously driven or a spiritually driven ideology. He restricted his revolution, as it's been coined, to deal with economic matters. Then the minister comes along and strikes amendments in the School Act that deal completely with ideology. They deal with ideology in that you are taking away the individual's right to send his taxes where he wants to send them. How can that be any fairer than having the taxpayer himself say, "I want to send my taxes to that school board because my child goes to that school board"? What's fairer than that? What's fairer than letting that person vote in the trustee election? Does it make one single bit of difference to the minister? Does it alter one single red blood cell in the minister's body, one single white blood cell in the minister's body? Does it make one single difference as to how people vote in school trustee elections? It can't make a difference. But to the people who want to go to those schools and send their children to those schools, surely the right to vote in those trustee elections is important to them.

The hon. Member for Calgary-Currie, when she was a member of a Catholic school board, would get votes from those types of people, people who were sending their children to the Catholic school system by choice. They would vote for the hon. member. Stand up now and fight for those people, hon. member. Stand up and fight for people to have the right to vote for the school board that educates their children. There is no economic downside to the government to accept this amendment. It would do much for the government. It would do much for the government to have an opportunity to go back to their constituents during the course of the summer and say that the Official Opposition brought forward some reasoned, detailed, and competent amendments, and we adopted them because they were fair and right, instead of slamming through this ideologically driven approach.

The new member, the hon. Member for Calgary-McCall, joins a group that says that he will be given an opportunity to be an individual. He campaigned at the doorstep saying that he was an individual. He campaigned and said that he was interested in helping the people in his constituency. Well, you have a chance

now, hon. Member for Calgary-McCall, to stand up and help the people in your constituency. You have a chance to do that.

Don't look for guidance, hon. member, from the member who spoke earlier, the hon. Member for Stony Plain, because the history and legacy of that member is that he sat over here on his hands for years while this government went \$32 billion in debt, and now he crows about how he saw the light. The only light that hon. member saw was so much 'wastitude' that he wanted to be closer, he wanted to get closer to the source of the 'wastitude.' That's what the hon. member wanted to do. Thirty-two billion this province went into debt and the hon. member sat over here on his hands mute. So do not take your guidance from the hon. Member for Stony Plain.

Stand up and speak for your constituents, hon. Member for Calgary-McCall. Stand up and be a fighter for those people in your riding who are counting on you, counting on you to protect them, counting on you to do your job in this Legislative Assembly. What is your job? Your job, hon. member, is to stand up and speak for the people who are disadvantaged, and right now the Catholic school trustees in the Calgary . . .

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

Point of Order Relevance

MR. DAY: Well, it's a well-known citation on relevance, Mr. Chairman. We're not into the job description of MLAs; we're into this very specific amendment. The Member for Fort McMurray cannot even bear any kind of focus on it. He's lost his mind. He's become irrational. I would ask that you would refer him to the amendment and stop wasting taxpayers' money in this House.

THE CHAIRMAN: The hon. Member for Fort McMurray on the point of order.

MR. GERMAIN: Yes. What an astounding proposition for that hon. member to call me irrational when I'm standing up and speaking for the Catholic school boards of this province, who are concerned about this amendment. Now, how do I elect to do that, Mr. Chairman? I elect to do that by encouraging members to participate in the debate, to think about their own constituencies. That is a completely legitimate approach. It is a very good and effective approach. The only reason the hon. member has risen on this nonexistent point of order is that he wants to break the tempo of the fact that I was persuading the hon. Member for Calgary-McCall to come along and support education in this province.

THE CHAIRMAN: The question of relevance is under our own Standing Orders. A member will be called to order if that member "speaks to matters other than the question under discussion." Hon. members, inasmuch as we are on an amendment, to have such wide-ranging debate is perhaps at any hour of the night trying and I think pushing on the bounds of the rules of the House. So, hon. Member for Fort McMurray, if you could contain your discussion to the amendment, which we are calling A9, as proposed by the hon. Member for Edmonton-Centre.

10:10 Debate Continued

MR. GERMAIN: Yes, indeed. Thank you, Mr. Chairman. To refresh the memory of the House, the hon. Member for Edmonton-Centre moved that Bill 37 be amended by striking out

section 29(1)(b). Now, I will spare the Members of the Legislative Assembly from reading section 29(1)(b) in its entirety, but I will remind all hon. members that what the legislative intent of the section proposed by the minister proposes to do is disenfranchise people from voting in Catholic school board elections when their children go to the school but are not necessarily members of the Catholic school board faith. So that's what the minister's amendment does that is under discussion.

The minister's amendment also does one other thing, Mr. Chairman, and that is that it freezes effectively the Catholic school rolls as at May 24, 1994. If they're not assessable for Catholic school purposes on that date in situations that apply to what is contemplated by the amendment, they cannot thereafter catch the taxes. Those taxes will go into the general government pooling fund, and the Catholic school boards, who are educating those students, will not be able to access those funds directly by direct levy and by direct assessment.

Now, you're going to say on this amendment, Mr. Chairman, "What difference does it make?" Well, it makes this difference: it takes away the freedom of choice in the economic context and it takes away the freedom of vote in the social context, and that is simply wrong. For a government that prides itself on democratic principles, to take away somebody's right to vote for a school trustee in the school system where their child is educated is simply wrong.

I want to urge all Members of the Legislative Assembly to vote for the opposition amendment, which in fact kills that odious retraction of somebody's democratic process. If you vote against this amendment, what you're saying is that it's all right for minority groups to lose their vote. That's what you're saying in effect, Mr. Chairman. You're saying that it's okay for minority groups to lose their vote, in this case the minority group being people who choose to educate their children in the Catholic school system that are not of that faith.

So with those concluding comments, Mr. Chairman, I apologize for riling up the Minister of Labour. I apologize for riling up the hon. Member for Stony Plain. I do apologize, but I do note that he agreed with my submission and accepted my submission as there was no point of order. On that happy note I'll end my comments.

THE CHAIRMAN: Hon. Member for Fort McMurray, before we recognize any further members, was your last comment really a question of the Chair?

MR. GERMAIN: No.

THE CHAIRMAN: A questioning of the Chair's actions?

MR. GERMAIN: No.

THE CHAIRMAN: The hon. Member for Edmonton-Centre on amendment A9.

MR. HENRY: Even at this late hour it is Edmonton-Centre, Mr. Chairman, not Edmonton censure. Back in my youth I spent a great deal of time studying the works of Freud, and when you referred to me as Edmonton censure instead of Edmonton-Centre, I became deeply worried. I daresay I might develop some complexes because of it, but I'll try to get on with that and move on.

Mr. Chairman, I have made my points with regard to what this amendment will do and the historical events with regard to separate school rights and separate school supporter rights in this

province. All I want to say at this point is that I am very confident that my amendment is the moral thing to do, the right thing to do. I can assure all hon. members of this House that if I have just one government member who votes with this particular amendment, I daresay I will call a press conference tomorrow and issue a press release congratulating that member for standing up for their principles and not being beaten down by the government Whip.

Thank you, Mr. Chairman.

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

MRS. ABDURAHMAN: Yes, Mr. Chairman. I, too, rise to speak in favour of this amendment. This deletion from Bill 37 is certainly not fair. It's unfair all the way to the bank. To take away people's rights, specifically a minority, to direct their education tax dollar to the separate school system is an injustice. What strikes me about this is the fact that you can have a child presently within that system where you've directed your taxes, and you can have two other children who are not in that system yet, and you've lost that right to direct those funds to that school. What could be less fair than for that to happen? Why should they not have the right to say that they wish that portion of their taxes to go to the separate school system?

I see the Minister of Education shaking his head. If that's not the case, if you're saying that it's not grandfathered, "property assessable on May 24, 1994," then I'm missing something. What happens after May 24, 1994, if you've other members of your family that are going to that school? Certainly if you've got your child there, you're not going to be able to direct your taxes there if that child moves out of that system and then four or five years later another child goes to that same jurisdiction. I would say that you've not only lost that right, but you've lost that right to vote for that system.

So, Mr. Chairman, with those comments I await the Minister of Education to explain to me, if indeed I'm reading him correctly across the way, as to why a family in 1999, for example, would have the same rights as prior to May 24, 1994, because my reading is that five years from now or three years from now they wouldn't have that right, and the child could have moved completely out of that system.

Thank you, Mr. Chairman.

[Motion on amendment A9 lost]

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

DR. MASSEY: Thank you, Mr. Chairman. I, too, would like to speak to Bill 37 and propose an amendment. I have copies for the Assembly.

THE CHAIRMAN: The Chair would observe that this amendment as proposed by the hon. Member for Edmonton-Mill Woods has the requisite signatures for the Table and will be known as amendment A10. Copies are being served out, and we'll invite Edmonton-Mill Woods to commence his comments. You have moved the amendment; haven't you?

10:20

DR. MASSEY: Yes.

Thank you, Mr. Chairman. The essence of this amendment, of course, is to strike the section of Bill 37 that involves retroactive

legislation. The particular piece that it addresses concerns the Edmonton Roman Catholic separate school district. I think the problem is captured in the court action that that district took with the provincial government. If I can just quote from that action, what the board had been ordered to do was to use their reserve fund for purposes other than they had originally intended. The case they made to the court was that they should be free to use the funds which they held in their capital reserve for such capital purposes as the board determined and that the province had no authority or jurisdiction to require them to do otherwise. They went on to make the case in terms of the debenture financing for construction through the Alberta Municipal Financing Corporation. So this is where this particular amendment rests, Mr. Chairman, and in the objection of that board to have the \$2,540,917 that they had set aside in a reserve fund directed to purposes other than they had originally intended. That action proceeded, and we find ourselves with the kind of legislation here which the minister proposes should be retroactive and cover the kinds of orders that were given the board by the department at that time.

Mr. Chairman, the concern that the Edmonton Roman Catholic board's action raises is really the relationship between that board and local boards and the Department of Education. From experience it seems to me that that board has acted in the past in an extremely responsible manner. They have a long history of acting, as I said, responsibly, and they seem to be caught – not just that board alone but boards across the province – in a context that finds them at odds with the minister and his department. It's a tension that seems to be growing, and it's a tension that I don't think is healthy. It's a dramatic contrast to what seemed to happen in the past, when local boards were accorded a great deal of autonomy, when their advice was sought, and when there was every attempt by the department to work with boards and to work out acceptable solutions to problems. That seems to have been cast aside, and as I indicate, there's a rather unhealthy atmosphere, environment, that now seems to exist.

The disturbing part of it seems to rest with the minister and some of the officials in his department, where there is a seeming resentment of local boards. There's a resentment of an intrusion into what the minister and his department consider their domain, and I think that resentment was exemplified two weekends previous, when the minister's deputy chastised some people who thought they were stakeholders in the educational enterprise in the province and relabelled them as interest groups and defined the stakeholders as students, parents, and the provincial government. It's that kind of redefinition and it's that kind of shutting out that I think results in this kind of amendment being brought forward to the School Act.

The whole role of local boards – if you go back and look at the School Buildings Board, if you look at the province's interest in school buildings, it seems to have been a very controlling one at various points in the province's history. There were times when there were attempts to make boards more autonomous, to ask them to propose five-year building plans, to try to sequence the kind of building that was going to be undertaken, and to allow the province to do more planning. But there's always been a part of the department that seems very interested in micromanaging board affairs, particularly when it comes to building and building affairs.

In this case, the legislation again goes back to the Edmonton Roman Catholic separate district and tells them that the kind of careful planning that they did in setting aside a reserve for a specific purpose is to be set aside because someone in Alberta Education knows better. I would submit that there's a history of

Alberta Education not knowing better, and there are some good examples of that history in this city. I can recall proposals from the School Buildings Board that would have had Edmonton public turn over Victoria composite high school for NAIT's purposes. Those overtures were resisted, and as a result I think Victoria composite has become an integral part of the inner city. It's been revitalized and serves as an alternative high school in this city and services students from across the province. I can think of another instance when the department was, to say the least, shortsighted and would have taken some action with regard to Bennett school in the river valley. Luckily, local authorities prevailed and that facility, instead of being sold off, now has become an active environmental education centre.

I guess the point I'm making, Mr. Chairman, is that it seems to me that when it comes to buildings, when it comes to facilities, local boards and local decision-making is far superior to the kind of decision-making, which is often arbitrary and which is done at arm's length, that comes from the Devonian building. So I would urge members of the Assembly to support this amendment and to reject the notion of retroactive decision-making.

Thank you very much, Mr. Chairman.

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

DR. PERCY: Thank you, Mr. Chairman. I haven't spoken to any great extent on this Bill, but this section I will speak to, and it's because it embodies something that I think a Legislature should be very concerned about, and that is retroactive legislation. At what point do you draw the line where you change the rules of the game? If you want to talk about creating an economic environment that promotes investment, that promotes decision-making, the way it is done is by respecting the rule of law. It's by setting out the rules of the game and sticking to them. What this particular section of the Bill does is allow retroactively the government to change the rules of the game at the behest of a very powerful deputy minister.

What we're seeing here is in fact, either by hook or by crook, a particular deputy minister achieving a stated goal. I find that this particular clause and the retroactive nature of it borders on reprehensible because it violates the notion of property rights and sanctity of property rights. At some point there are rules of the game that you debate fairly, and you debate them before the courts. What this does is retroactively change the rules of the game and make superfluous whatever the Edmonton school board does before the courts.

Where does it stop? The minister and his deputy minister think this is appropriate to retroactively change the rules. What if we do this with small business? What if we do it with large business? How will we know where the line is drawn? The line here is drawn February 15, 1994, which is when in fact that deputy minister sent a letter to the school board with regard to those reserve funds and basically said that those reserve funds were going to be used in a manner that he deemed fit. Yet we've heard time and time again from this particular minister about the accountability of boards, that boards do have powers, that they can have decision-making. Well, this is a very clear instance where when a test of wills and competing judgments on what ought to be done came to the fore, the minister was unwilling to allow the courts to settle this and in fact chose to use legislation to settle this and to do so in a way that I think really does move us down a slippery slope in terms of attenuating all sorts of particular property rights, because they can be changed at the flick

of a pen now. So long as any party has a majority in the House, they can rewrite the rules of the game.

10:30

I would think that when all hon. members look at what Bill 37 does and you see that it's retroactive, that it's trying to in fact legislate what is presently before the courts, you would think that this is an amendment that you would defeat on principle. Whether or not you agree with the intent of the Minister of Education to use those reserve funds is not really the issue. The issue is how it's done, and it's done retroactively.

I would think that if you believe in the rule of law, that there are courts there to hear competing arguments, that there is a role for school boards to make decisions and to be accountable to the people that do elect them, you would support this amendment. I think this amendment very clearly stands for something that all members in this House should agree on, that there is a court system to settle disputes and you don't retroactively change the rules of the game.

With those comments, Mr. Chairman, I'll close and take my seat.

THE CHAIRMAN: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you very much. Mr. Chairman, I won't take a long time and I won't prolong the debate on this issue, but surely all members opposite must be concerned about retroactive legislation. Retroactive legislation is contrary to the fundamental rules that govern us. People should always know where they stand on legal issues. What we have done here effectively is expropriated money from the Catholic school boards and from any school board that has surplus capital by simply taking it away from them at the stroke of a pen. The Minister of Education must know and must feel that that is wrong.

These moneys were often collected by good stewardship, good management and were devoted to a specific purpose, and those boards that have those moneys want to utilize those funds for those same specific purposes. It is wrong to retroactively prevent them from doing so, and I urge all members of this Assembly to vote for this amendment.

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

MR. SAPERS: Thanks, Mr. Chairman. My comments, too, will be brief and to the point on this amendment moved by my colleague. Two of the enduring hallmarks of western common-law democracies are that they do not bring into law *ex post facto* legislation and that their laws in fact are not retroactive. That is because in common-law jurisdictions the law is supposed to be known and knowable by all. All citizens must know what it is that their governments expect of them. It's part of the social contract in a democracy.

Unfortunately, this section in Bill 37 would violate that, and what is frightening about this is that some of the features of the Third Reich in Germany included a constitution that allowed *ex post facto* and retroactive legislation. I would suggest that we should not be learning from that example, except what should be avoided.

Another frightening feature, of course, of that particular regime was the centralization of power, and I would hate to think that in any way, shape, or form this Bill that is before us would be following that lead. I would hope that this amendment against *ex post facto* legislation, against retroactivity would be accepted by

all of those who in fact honour the traditions of common law in a free and democratic society.

I would urge all members to vote in favour of this amendment. Thank you.

MR. DICKSON: Just speaking briefly, Mr. Chairman, to the amendment, in favour of this amendment, it seems to me that I remember not so long ago – I guess it would be in the spring of 1993, when we were dealing with MLA pensions – listening to the statements being made by the government at that time in terms of the problems with retroactive legislation. We heard speech after speech about the problems of retroactive legislation. Of course, that was concerning MLA pensions at the time.

Now we're talking about third-party rights intervening, third parties who aren't part of this Legislature who are going to be prejudiced by this amendment. I think this is a precedent in this Legislature that the government would not want to create. I think that to intervene in the fashion the government proposes to do here is going to create all kinds of problems with a host of other groups, not just the Edmonton Catholic school board.

I'd urge the government to reconsider, and in the meantime I'd urge all members who believe that retroactive legislation ought to be reserved for only the rarest, most compelling circumstances – I'd urge all members on that basis to support the amendment in front of us. Thank you.

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

MR. HENRY: Thank you very much, Mr. Chairman. Other members have really outlined what the two issues are in this amendment moved by the hon. Member for Edmonton-Mill Woods. We have the specific issue with Edmonton Catholic school board and the right to disburse or use the funds that they collected and put in reserve under the authority of the people who elected the board of trustees and the fact that the government has unilaterally decided that they should not have the right to honour the wishes of the voters who put the trustees in place.

We have to remember as well, Mr. Chairman, that because the government members refused a previous amendment, there is an amendment in this Act that will give the minister the power to provide that direction from here on into the future. So the other part of this particular piece of legislation that is dangerous is the retroactivity.

There's also a third part, Mr. Chairman, and I want to be really clear about the messages that are being sent out by the government in the government amendment and what we are trying to correct. Firstly, the government is sending out a very clear statement to everybody in this province that if you have a grievance, if you believe you are wrongly done by this government, don't dare sue them; don't dare take them to court. The lawyers in this province will be very sorry about that, because we know that there are often lots of causes to take the government to court. But the government's saying, "Don't take us to court, because if there's any chance of you winning, we'll change the legislation, we'll change the law, and we'll make it retroactive." So go and spend your hundreds of thousands of dollars on your legal fees, and go and retain the best lawyers this province has, but just be careful and always remember that that money might be wasted, because even if you're right legally, even if you're right morally, the government will, and by this action demonstrates that it will, move in, change the legislation that you feel aggrieved under, and make that retroactive prior to the commencement of your action.

Also what it says very clearly is that if you get a letter from a deputy minister of this government, you'd better sit up and pay attention. Even if that letter contravenes the law, even if that letter contravenes convention, you better sit up and do what you're told, again even if it contravenes the law, because if you dare challenge that letter, you'll end up not in court with the government, not in negotiations with the government but with the government changing the legislation to suit the whims of the deputy minister and making that retroactive to the date the deputy minister sent you that particular letter. So the next time a deputy minister writes you a letter and tells you to stand on your head and twiddle your toes, you'd better do that, Mr. Chairman, because if you don't do that, you may just see this government move in with retroactive legislation and make it the law that you would have to stand on your head and twiddle your toes or there'd be a consequence to that.

Mr. Chairman, this piece of legislation that we're trying to amend, this particular clause, is an affront to every Catholic school voter in the city of Edmonton particularly and in all the province of Alberta. It is saying to the Catholic school voters in the city of Edmonton that the system you put your faith in, the trustees that you elected – and believe me, there have been hotly contested school board elections – that all that has been for nought because regardless of what you approve, regardless of what you think is right, regardless of what you instruct your trustees to do, the government's going to come in and maybe change that and make it retroactive and will fly in the face of democracy in this city.

10:40

Mr. Chairman, this is another example of the government sticking it to the citizens of Edmonton. They tried it with Edmonton Power, and it didn't work. They're doing it this time. It's going to work because the government has the majority to force it through, but I daresay that there are tens of thousands of not only Catholics in this city and this province but people who believe in democracy and believe in fairness who are going to stand up and say that this is wrong. It is wrong, Mr. Minister, to change legislation retroactively when elected trustees did what they thought was best and what they thought their constituents wanted them to do. It's one thing to say that we want to change the rules from here on in. It's another thing to take those rules and change them retroactively, which is what is happening by this piece of legislation. The minister can shake his head all he wants, but what this says is that this particular section 11 of this amending Act will come into effect on February 15, 1994.

Mr. Chairman, this is wrong. The government members must know that it is wrong. I urge all government members to rethink this particular clause, and I urge members of this Assembly in particular who represent citizens in this city of Edmonton on both sides of this House to rethink this particular clause and to think about the implications in terms of the long term. Once the government is able to retroactively put in place legislation that undermines the court process we have and undermines the democratic process we have, if they'll do it once, they'll do it again and again and again. It might be that next time they'll tell the city of Edmonton or the city of Calgary: "You can't sell your water to a certain place. Only we can sell your water. Only private industry can sell water." It might be: "No, you can't do certain improvements to your downtown because we don't like it. We don't like what you did, so we're going to change the legislation."

Bringing it back to this particular piece of legislation, the issue here is retroactivity and whether the government has the moral

right. Very clearly the courts have said that retroactivity can only be used in extreme cases, in cases where there are no other options. I daresay that we've had a change in mood in our country in the last couple of years, and I give great credit to our national leadership, which has showed people that we have to balance the budget and we have to make difficult but fair decisions. I believe that if this one had been left alone, if we hadn't the retroactivity, the Catholic ratepayers in Edmonton might have been willing to sit down with the minister and negotiate the disbursement of those particular funds through their locally elected trustee.

So, in closing, I urge all hon. members to support the amendment that would eliminate this regressive retroactivity clause and eliminate a dangerous precedent and also tell the people of Edmonton and of Alberta that when you act with the government, you can act in good faith. You can act knowing that what the rules are, the rules will be, and they won't be changed after you enter into a negotiation or after you enter into some sort of engagement with the government. The government won't make legislation retroactive.

Mr. Chairman, the last thing I'd like to say about this one is that if this government is so determined that it's okay to make legislation retroactive in the court appeal that's going on, then I want them to be consistent. I want the freedom of information legislation, when it's proclaimed, made retroactive to 1989 so we can find out what happened with the money in NovAtel, so we can get the documents that happened in MagCan, so we can find out about Gainers. We can find out where all the government money went because it went into somebody's pocket. It didn't just disappear into thin air. If these folks want to have retroactive legislation, then let's get freedom of information and accountability legislation retroactive to 1989 so we can find exactly what happened over the last few years.

Thank you, Mr. Chairman.

THE CHAIRMAN: We have under consideration, then, amendment A10, as proposed by the hon. Member for Edmonton-Mill Woods. All those in support of amendment A10, please say aye.

SOME HON. MEMBERS: Aye.

THE CHAIRMAN: Those opposed to amendment A10, please say no.

SOME HON. MEMBERS: No.

THE CHAIRMAN: Defeated.

The hon. Member for Edmonton-Centre.

[Several members rose calling for a division. The division bell was rung at 10:45 p.m.]

THE CHAIRMAN: I think that's accidental. Are you calling for a vote? There were three members standing.

MR. BRUSEKER: Mr. Chairman, I believe there probably will be a standing vote, but I would ask to move the appropriate standing order that we shorten the time from 10 minutes down to one minute.

THE CHAIRMAN: We can't do that. We're in committee. We can't waive Standing Orders or amend Standing Orders in

committee stage. In any event, the amendment A10 was defeated. Is that agreed?

SOME HON. MEMBERS: Agreed.

[Several members rose]

THE CHAIRMAN: I'm not sure that we can really do that, folks. The question was whether or not there was a standing vote, and apparently there wasn't a call for a standing vote. So then in trying to determine what you could do, we then got into a discussion of what committee can do in terms of waiving Standing Orders.

The motion on amendment A10, as moved by the hon. Member for Edmonton-Mill Woods, is defeated.

Now, are you ready for the next stage . . .

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

THE CHAIRMAN: Yes. The hon. Member for Edmonton-Centre.

Point of Order Division

MR. HENRY: Thank you very much, Mr. Chairman. I just wanted to point out to the Chair, with great respect, that there were three members, in addition to the Opposition House Leader, who stood asking for a division, and I was one of those members. The bell was rung perhaps accidentally, and the Chair then recognized the Opposition House Leader, but there were three members at that point standing calling for a division.

THE CHAIRMAN: The hon. Government House Leader on Edmonton-Centre's uncited point of order.

MR. DAY: Well, I agree with your ruling, Mr. Chairman, in terms of the fact that it did not appear to you that there was a division being called. However, I recognize the dilemma of the opposition in terms of wanting the time shortened so we don't waste 10 minutes here. I've suggested to the Opposition House Leader – whether he would concur or not, I don't know – that in fact for them to be able to register their opposition, it could be done when we ask the Assembly to concur in the report. A standing vote could be held then, and just before doing that, we will be out of committee. The Opposition House Leader could make his request for unanimous consent to dispense with the 10-minute bells. It could all be resolved that way, and they could have their division registered.

THE CHAIRMAN: The Chair would also indicate that, with benefit of counsel, what has also been done, apparently, is if we get unanimous consent in the committee and we have the report concurred in at the end, we can accomplish that. So before we hold the vote on A10 . . . [interjections] But it was done afterwards; right? Unanimous consent for the waiver must be done before the vote, but we've already had a vote, which you want now to make a standing vote?

SOME HON. MEMBERS: No.

THE CHAIRMAN: A recorded vote?

The hon. Member for Edmonton-Centre.

MR. HENRY: With great respect, Mr. Chairman, there were three members standing calling for a division. When you called the vote, three members immediately stood. Instead of calling for a division, I believe you recognized the Opposition House Leader, who perhaps should have known better than to get up and try to change the rules after the fact.

THE CHAIRMAN: The Chair would agree with Edmonton-Centre. In actual fact, there were three members standing. The bell was rung. The Chairman thought it was by accident. In fact it was not, so we have a 10-minute bell.

[The division bell was rung at 10:50 p.m.]

[Ten minutes having elapsed, the Assembly divided]

11:00

For the motion:

Beniuk	Germain	Nicol
Bracko	Henry	Percy
Bruseker	Kirkland	Sapers
Decore	Massey	White
Dickson	Mitchell	Zariwny

Against the motion:

Amery	Gordon	McFarland
Brassard	Havelock	Oberg
Burgener	Herard	Pham
Calahasen	Hierath	Renner
Cardinal	Hlady	Severtson
Coutts	Jacques	Shariff
Day	Jonson	Smith
Doerksen	Laing	Stelmach
Evans	Langevin	Thurber
Fischer	Magnus	Woloshyn
Forsyth	Mar	Yankowsky
Friedel	McClellan	

Totals: For - 15 Against - 35

[Motion on amendment A10 lost]

[The clauses of Bill 37 agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE CHAIRMAN: Carried.

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

[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 a great deal of consideration certain Bills. The committee reports the following: Bill 37. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

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

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? So ordered.
The hon. Deputy Government House Leader.

MR. EVANS: Thank you, Mr. Speaker. I would seek unanimous consent of the Assembly to waive Standing Order 73(1) with respect to Bill 42 in order that we may proceed to second reading of Bill 42. This is, of course, not the norm, nor is the Miscellaneous Statutes Amendment Act, 1995.

This Act involves a number of amendments to pieces of legislation that are noncontentious. Those amendments have been reviewed by the Liberal opposition, and I appreciate the assistance that I've received from the hon. critic for the Liberal Party, the Member for Edmonton-Strathcona. I believe that there are no matters in dispute either on the government side or on the opposition side, and so again, Mr. Speaker, I would hope that unanimous consent could be obtained.

THE DEPUTY SPEAKER: Does the Assembly agree to waive the Standing Order so that we may proceed with second reading of Bill 42? All those in support, please say aye.

HON. MEMBERS: Aye.

THE DEPUTY SPEAKER: Opposed? Carried.
You have unanimous consent.

head: **Government Bills and Orders**
head: **Second Reading**

Bill 42
Miscellaneous Statutes Amendment Act, 1995

THE DEPUTY SPEAKER: The Minister of Justice and Attorney General.

MR. EVANS: Thank you, Mr. Speaker. I appreciate the assistance from hon. members.

I would now move second reading of Bill 42.

[Motion carried; Bill 42 read a second time]

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

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

[Mr. Tannas in the Chair]

Bill 42**Miscellaneous Statutes Amendment Act, 1995**

THE CHAIRMAN: Are there any comments, questions, or amendments to be made?

[The clauses of Bill 42 agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed? Carried.
The hon. Deputy Government House Leader.

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

[Motion carried]

[The Deputy Speaker in the Chair]

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

MR. HERARD: Well, thank you very much, Mr. Speaker. The Committee of the Whole has had under consideration certain Bills. The Committee reports the following: Bill 42.

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

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? So ordered.
The hon. Deputy Government House Leader.

MR. EVANS: Thank you, Mr. Speaker. I would now ask unanimous consent of the Assembly to waive Standing Order 73(1) in order that we may move to third reading of Bill 42.

11:10

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader has moved that the Assembly grant unanimous consent to waive the Standing Order so that we may proceed to third reading of Bill 42. All those in favour, please say aye.

HON. MEMBERS: Aye.

THE DEPUTY SPEAKER: Opposed, please say no. Carried.

head: **Government Bills and Orders**
head: **Third Reading**

Bill 42**Miscellaneous Statutes Amendment Act, 1995**

MR. EVANS: While I'm on a roll, Mr. Speaker, I would now move third reading of Bill 42.

[Motion carried; Bill 42 read a third time]

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader.

MR. EVANS: Thank you very much, Mr. Speaker. Given the very good progress that we have made this evening, I would now move that the Assembly adjourn until tomorrow afternoon at 1:30 o'clock.

[At 11:14 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]