

Legislative Assembly of Alberta

Title: **Tuesday, May 16, 1995**

8:00 p.m.

Date: 95/05/16

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

[Mr. Tannas in the Chair]

THE CHAIRMAN: I'd like to call the committee to order, reminding all hon. members that tonight we're going to try and maintain the novel one person standing and talking at the same time approach.

I still have about six people standing and talking. Order.

Bill 33 Franchises Act

THE CHAIRMAN: We'd ask the hon. Member for Red Deer-South if he would care to make any comments or amendments.

MR. DOERKSEN: Mr. Chairman, we're just pleased to deal with this Bill in committee stage, and we'll get on with the debate.

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

MRS. ABDURAHMAN: Yes, Mr. Chairman. I'm very pleased to stand in Committee of the Whole to speak to Bill 33. We have a gentlemen's agreement that we're going to move through Bill 33 within half an hour. I have four amendments. So to that end, to keep that gentlemen's agreement because I know this is an important Bill to the franchise industry in the province of Alberta, at this time I'd like to move my first amendment, which I believe has been circulated. That is that Bill 33 be amended in section 6(1) by adding the following after "if the Minister": ", after consultation with the body designated under 21(1),". Now, this is a very important amendment inasmuch as:

The Minister may by regulation, if the Minister is satisfied that to do so would not be prejudicial to the public interest, exempt . . .

What in essence this amendment does is: in consultation with the industry through the self-regulatory body as laid out within the Bill. My understanding is that the government will support this amendment, and I take that in good faith, which is the basis of this Bill based on the general regulations: "20 The Lieutenant Government in Council may make regulations . . ." So we're looking at a self-governing body.

Thank you, Mr. Chairman.

THE CHAIRMAN: Okay. The hon. Member for Clover Bar-Fort Saskatchewan has moved an amendment to section 6(1). We're calling that amendment A1. Any further comments on the amendment as moved by Clover Bar-Fort Saskatchewan?

[Motion on amendment A1 carried]

MRS. ABDURAHMAN: Mr. Chairman, speaking once again to Bill 33, the Franchises Act, in Committee of the Whole. As I've stated previously, this Bill has had full consultation with the interested parties. They fully support this Bill, but they did want to see some improvements. All the amendments I'm bringing forward have the support of the majority of people that will be governed by Bill 33. So at this time I would move that Bill

33 . . . Mr. Chairman, I have a gentlemen's agreement to move through this quickly, and I certainly would like some order.

Chairman's Ruling Decorum

THE CHAIRMAN: Hon. members, there does seem to be an inordinate number of people who are squealing, giggling, talking, and making other kinds of noises that are drowning out even the Member for Clover Bar-Fort Saskatchewan. I wonder if we could retire to the lounge and watch the hockey game or whatever, but in any event allow us to hear the comments by the hon. member.

Debate Continued

MRS. ABDURAHMAN: Mr. Chairman, I'm moving that Bill 33 be amended in section 4(3) by adding the following after clause (c), so it would now read:

A disclosure document must . . .

(d) be signed by the franchisor.

I believe this is an important amendment once again because there has to be ownership to this disclosure document, and presently there's no requirement for all directors of the franchise to sign the document. Therefore, they would not be liable for any damages.

Mr. Chairman, I think this is a very important amendment. In essence, it's a good business practice to ensure that there is ownership within this Bill on the disclosure documents. This is supported by the industry, and I would ask the government to look at this amendment seriously and indeed support it, not to just dismiss it without closely looking at how it improves the document.

With those comments, I will take my seat.

MR. DOERKSEN: Mr. Chairman, I want to respond briefly to this amendment. Under that same section 3 where she proposes the amendment, in section (c) it says: "contain financial statements, reports and other documents in accordance with the regulations." There are a number of good ideas, including this one, that should be considered about what should be included in disclosure documents, who should sign them, and what kind of statements should be presented. That will be addressed under regulations, and so I would recommend rejection of this amendment.

MRS. ABDURAHMAN: Mr. Chairman, just to respond. I would like to point out that there's too much left to regulations by this government. I would say once again that this is a demonstration of fair dealings in good faith, and it should have been incorporated into Bill 33, because indeed the principles of the Bill would require that.

Thank you, Mr. Chairman.

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

MR. CHADI: Thank you very much, Mr. Chairman. In speaking to this amendment I have to say that much consultation took place with the different stakeholder groups: the franchisors, the associations here in Alberta, the association nationally, and I know the Franchisee Association here in Alberta and the national organization as well, in conjunction with people with the different government departments that were responsible for bringing this forward through the Member for Red Deer-South. There were many instances after Bill 45 - which was the original Bill presented in this Legislature back before we became MLAs, Mr. Chairman - that prompted these stakeholders to want to make

some changes and bring those forward in a new Bill. Of course, that's what we see before us now.

What we have is yet some fine-tuning that has been taking place, not from members on this side of the House or the Member for Clover Bar-Fort Saskatchewan unilaterally. That fine-tuning has been taking place with still the same stakeholders, Mr. Chairman. I urge all members in this Assembly that if we're going to create the best possible Bill, let us do it now. The stakeholders who initially took part in creation of Bill 33 here are now saying that we would like to see this one clause inserted in section 4(3).

Mr. Chairman, the explanation given by the Member for Red Deer-South about leaving it to regulations is reasonable, but at the same time, without having the regulations before us it's very difficult to accept the explanation. Now there are an awful lot of things that we can say, "Well, let's leave it to regulation," no matter what Bill we're talking about. It's easy to say that, and it's easy to do, but without having the regulations in front of us – we're not debating the regulations right now. We're debating the Bill, and in this case we're debating an amendment to be put in this Bill. So I'd urge all members of this Assembly to support this amendment. It is an amendment that is being brought forward after much consultation with the different stakeholders. So with that, Mr. Chairman, I'll take my seat.

Thank you.

[Motion on amendment A2 lost]

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

8:10

MRS. ABDURAHMAN: Thank you, Mr. Chairman. I would further move that Bill 33 be amended in section 4(8) by striking out "the amount prescribed by regulations," and substituting "an amount equal to 10 percent of the initial franchise fee,".

Now, Mr. Chairman, I believe that once again we'll hear from the government that this can be taken care of in regulations. Quite frankly, I find it ironic, because what we're seeing now is a rules and regulations committee that never meets, and we're setting up a committee removed from this Legislature to look at all the regulations this government and past governments have developed. If in the first instance you had sound, strong legislation, you wouldn't need all these long regulations that are restrictive in the marketplace. So I find it really ironic that when we're bringing forward amendments to a Bill to strengthen the Bill and to assist the marketplace to be more effective and efficient, this very government is turning around saying: "No, no, no. That should be in the regulations."

Like the previous amendment, Mr. Chairman, this is dealing with good faith and fair dealings, and it belongs in the legislation. It doesn't belong in the regulations. I don't accept what this government is saying, that putting everything in regulations is the best way for entrepreneurs to find a competitive market out there and to get rid of all the restrictions that governments tend to put in their way.

Thank you, Mr. Chairman.

THE CHAIRMAN: Okay. Are you ready for the question?
Edmonton-Roper.

MR. CHADI: Thank you. Once again, Mr. Chairman, I feel compelled to speak to this particular amendment and that is with

respect to refunds. The deposit as described in the Bill: "a fully refundable deposit is a deposit that does not exceed the amount prescribed by the regulations." Once again, there are no regulations before us to know exactly what we're dealing with. I know the different stakeholders, franchisors and franchisees, have gotten together and created a great portion of this Bill, and as a result have again thought of some fine-tuning. I'm wondering if it wouldn't be appropriate now for all members of this Assembly to consider once again the element of fine-tuning. This is an excellent opportunity to incorporate it at this point in time instead of coming back to amend Bill 33 perhaps in the fall or next spring. Here we have it before us. It's an excellent opportunity. Perhaps we should all take a look at this. It's a reasonable amendment in my opinion. It takes it away from the regulations. It makes it clear and concise and it's cut and dried here and now where everybody can understand it.

With those comments, Mr. Chairman . . .

[Motion on amendment A3 lost]

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

MRS. ABDURAHMAN: Yes, Mr. Chairman. I'd like to bring a further amendment forward, and I believe it's been circulated. It's a lengthy amendment. This amendment I believe is as important to this Bill as indeed the first amendment the government supported.

When you look at the principle of Bill 33, which is fair dealing and good faith, I believe that indeed section 7 was put in there because in essence the people who fall under the Franchises Act, whether it be the owners or the operators, requested this: that there has to be fair dealing and there has to be good faith in the marketplace. For any government to resist that, you have to have a big question mark, because the only persons that you're accommodating when you don't have fair dealing and good faith are the large multinationals or under the Franchises Act I'd say the large grocery chains or the automakers, which indeed come from south of the border.

Now, we do have fair dealing under section 7, but it's so narrow. I know that the government once again is going to say, "Oh well, you leave everything to the regulations," but once again, I don't accept that. You need to strengthen this legislation. I know that the industry wants to see this clearly stated in Bill 33, so Mr. Chairman, I move at this time that Bill 33 be amended by adding the following after section 7, and I'll do this in totality.

7.1(1) A franchisor may not refuse to renew a franchise agreement unless the franchisee has received 6 months' notice of the refusal and the franchisee will be compensated either by repurchase or by other means for the fair market value of the franchised business, as if the franchise agreement had been renewed.

(2) If the parties cannot agree on the terms of renewal, the terms of the renewal must be at least substantially the same as the terms being offered to prospective franchise operators.

7.2(1) A franchisor may not unilaterally terminate a franchise agreement before its expiration unless there is just cause.

7.3(1) A franchisor may not refuse to approve a transfer of a franchise unless there is just cause.

(2) If approval of a transfer is required, the franchisor may not unreasonably withhold that approval.

(3) A franchisor is deemed to have approved a transfer unless the franchisee receives written notice of the reasons for disapp-

proval within 30 days of the franchisor's receipt of the written notice of the proposed transfer.

7.4(1) A notice must be in writing and must contain a statement of the intention to not renew, to terminate or to refuse to transfer the franchise as the case may be

- (i) together with the reasons for the non-renewal, termination, or refusal to transfer, and
 - (ii) the effective date of the non-renewal or termination.
- (2) A notice of request to transfer a franchise by a franchisee must be in writing.

Now, Mr. Chairman, this amendment clearly lays out in the legislation what section 4 is attempting to do, and that is dealing with fair dealing and good faith. Leaving this to the regulations, I would say, could end up being a hit or miss, and indeed it substantially weakens this Bill. I believe that when you're in business, it's only fair when you're in a franchise situation between the owner and operator that there is good faith, demonstrated good faith. These amendments do that. No one, no one has the right to take fairness or good faith away from an operator. Too often within the province of Alberta I've been told by the grocery industry, by the car dealers' association, and I've heard from Robin's Donuts, another franchise, that indeed the owner has not treated the operator fairly. That's not acceptable.

Now, by accepting this amendment to section 7, it indeed makes the obligation of the franchisors to the franchisee, the owner to the operator, clearly laid out that there's fairness and good faith when you enter into that agreement. I would ask the government members: if you're serious about a level playing field, if you're serious about fair dealing and good faith and you truly believe in the medium-sized business community and small business community, which in essence is the engine and the backbone of our communities, you would have supported all of these amendments. If you couldn't see your way to support two of the amendments that I brought forward previously, I would ask you and I'd urge you to support this.

8:20

I don't know how you can go back to chambers of commerce and small and medium-sized businesses in this province of Alberta and say that you voted this down and you're putting in regulations. You're going out there and saying we're overregulated and we're going to look at all these regulations when at the same time in this very House you keep building regulation after regulation after regulation, and you put out weak legislation. So let's put our money where our mouth is. Do it in the legislation. Cut back on all these regulations that you're creating out there and confusing the marketplace. Stop making it more beneficial for people like the big automakers or the big grocery chains that come from south of the border. That's who you're playing to when you don't have effective legislation.

Mr. Chairman, I stand here and I think that I know well that my comments are falling on deaf ears. We've had a rules and regulations . . . [interjections] Oh, my colleagues are with me. We have a rules and regulations committee that's never met. We have a government that says that they're open for business, that they want a level playing field, yet I don't see that being demonstrated. The industry wants this Bill. We could have had it moved last week without a problem. You had Bill 45. You had the proposed Franchises Act. Support this amendment, and let's say that indeed we have a level playing field.

Thank you.

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

MR. CHADI: Yes, thank you very much, Mr. Chairman. Once again I feel compelled to speak to this amendment, and of course I would like to hear from the mover of Bill 33, if this amendment is not acceptable to the mover, the explanation as to what could be so wrong with it.

When I look at the Bill itself, on page 10, section 7 talks about fair dealing. Mr. Chairman, under the heading fair dealing – it's probably one of the smallest sections in this entire Bill – there's one sentence there, and it says: "Every franchise agreement imposes on each party a duty of fair dealing in its performance and enforcement." That is it. Now, it's amazing that we'd create a Bill in this Legislature when we are having in Alberta, as there are across Canada or any westernized part of this world, franchises that are the thing of the future in this day and age, particularly because of the fact that more and more people associate with the brand names, if you will, with the Robin's Donuts and with the Kentucky Fried Chickens and the Wendy's of the world. They're even franchising hair salons nowadays and diet places. Just about everything you can think of now is working on franchises.

MR. RENNER: Hair replacement.

MR. CHADI: I was told, "Hair replacement." You're absolutely right, Medicine Hat. They are in fact franchising hair replacement nowadays.

The section under fair dealing is one sentence, and I think that it is far too broad. If you're going to ask anybody here to interpret pretty much anything, it could fall under section 7. In other words it could be interpreted in thousands of different ways to in fact suit whichever argument you have presented.

In the amendment as presented by Clover Bar-Fort Saskatchewan . . . [interjection] I see I've encouraged debate from the Minister of Transportation and Utilities. I would encourage him to rise and debate this amendment then.

In fact what we're saying here with a portion of this amendment is that "a franchisor may not unilaterally terminate a franchise agreement before its expiration unless there is just cause" and also that they "may not refuse to approve a transfer of a franchise unless there is just cause," and that an approval such as this cannot be unreasonably withheld, Mr. Chairman. I urge all members of the Assembly to listen to this, because this could happen. It happens just about every day where you have situations where, let's say, you've got a really busy, for argument's sake, Mac's store and it's about to be sold to somebody else but the franchisor wants to capitalize on that situation. What they'll just do is withhold – they will withhold and can withhold under this Bill as it's written, drafted, as presented here – that approval, and there's nothing that can be done.

I think you're going to cripple the franchise industry by not including an amendment as presented by Clover Bar-Fort Saskatchewan. I would encourage you very much to think about those words, about how we can give some freedom, if you will, to the franchisees. I'm a little afraid that the franchisors could have the hammer here just about on any situation at all with respect to dealing fairly.

So I would encourage, Mr. Chairman, the Member for Red Deer-South, the mover of this Bill, to tell us why this amendment ought not be included in this Bill. Perhaps the Member for Red Deer-South can enlighten us.

Thank you.

THE CHAIRMAN: The hon. Member for Whitecourt-St. Anne.

MR. TRYNCHY: Thank you, Mr. Chairman. Just a question to the sponsor. I'm thinking about the agricultural industry. I've had some discussion with some of the dealerships. It says under section 7: fair dealing. I wonder if a farm machinery implement supplier comes to close out your shop and you have half a million dollars' worth of parts and they just say, "You're finished," is there somewhere they have to take these parts back? Is that the fair dealing under this?

So I'm concerned, unless it's under agriculture. Does the agriculture industry have some protection in regards to the sale or the takeaway of parts after they close you out? I've had that happen in this province, and I've been asked that question. To make sure: if it does happen, is there some protection under regulations if not under the Act?

THE CHAIRMAN: The hon. Member for Red Deer-South.

MR. DOERKSEN: Thank you, Mr. Chairman. I want to say from the outset that I appreciate the co-operation that we received particularly from the Member for Clover Bar-Fort Saskatchewan. She's been very open with the amendments presented. We've been able to discuss them ahead of time, and that is appreciated.

Just on this particular amendment, Mr. Chairman, because it is a significant amendment and it does address the fair dealing clause, which is under section 7. I want to go back and remind people that when we went to the industry and said that we wanted to have a franchises Bill, we had the option of going with Bill 45 or repealing the Franchises Act in its entirety, and in agreement with the representatives on that panel and disbursed to a large range of franchise holders, which encompasses more than agricultural dealers, more than motor dealers – we're talking Kentucky Fried Chicken, McDonald's, photocopying stores, et cetera, et cetera. You cannot put in legislation details to this extent that will cover off every possibility under contractual law. In this Bill we have set up that provision where the franchise owner and the franchisee groups can get together and come up with an agreement on self-regulation, and if they want to agree to these particular clauses in that self-regulation, by all means that's not a problem. What we really tried to achieve with this Bill – okay? – was to get a balance between providing for fair dealing yet respecting a free market that doesn't intrude too much into the business deal.

8:30

I can relate briefly to my experience in the banking industry, just to explain why you can't stipulate with such certainty the ideas that this amendment tries to enforce. When a bank calls a loan and demands payment, you have to provide reasonable notice. Now, reasonable notice in the case of perishable goods is completely different than reasonable notice in the case of goods that are not perishable. You couldn't say in that circumstance that 10 days applies to every situation, because it doesn't. In some cases 10 days would apply; in other cases 120 days would apply. So you can't be this restrictive as I think is proposed under this amendment. I think that what we have included in this Bill is the obligation of each party to do fair dealing. I think that covers the member's question.

In the agricultural industry there will be some time, because this has not been in legislation before, for the fair dealing clause to perhaps have interpretation as we move along through the courts. But, Mr. Chairman, we can't provide it in such detail as is suggested under this particular amendment. We may disagree with the Liberal opposition on this point, and that's fair. We can agree to disagree.

Those are the reasons, Mr. Chairman, and now I would call the question on the amendment.

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

MRS. ABDURAHMAN: Yes, Mr. Chairman. I'm glad that the Member for Whitecourt-Ste. Anne raised that question to the mover, because indeed he's hit the nail on the head. In fact, I have to commend the government of Alberta – and I did that in second reading – for having a franchise Act in the province of Alberta and going with Bill 45, going the proposed Franchises Act route of consultation, and coming in with Bill 33. This is a good Bill, but like I said about the Real Estate Act and the Charitable Fund-Raising Act, they could have been improved upon, and this one can be improved upon.

The section dealing with fair dealings to my mind, yes, addresses to some degree the principle, which the Member for Whitecourt-Ste. Anne was asking, but if you don't have that clearly laid out in the regulations, there isn't the protection that should be there. Why should a government shy away from that fair dealing section and lay it out, which is a level playing field? We do it for other industries. We're always protecting the oil and gas industry. Why can't we do it for the small and medium sized businesspeople, do it in the legislation, and indeed the small businessman, whether he's in Whitecourt or Fort Saskatchewan or High Level, so that they're not suddenly left with this inventory when unfortunately in some provinces the owner can come in and say, "Sorry; you don't have the franchise anymore." That's what the Member for Whitecourt-Ste. Anne is getting at.

I know we're not going to get this amendment. I hear from the other side of the House that we're not going to get it. Well, I would say to the Member for Whitecourt-Ste. Anne that you'd better make sure that this government puts it in the regulations if you want to make sure there are fair dealings and good faith.

Thank you.

[Motion on amendment A4 lost]

MR. DOERKSEN: Mr. Chairman, I seek your permission. I haven't done this before. Is this where I ask for it to be reported when the committee rises?

THE CHAIRMAN: No, it's not, but it's a nice thought.

MR. DOERKSEN: Okay.

THE CHAIRMAN: Are we ready for the question?

MRS. ABDURAHMAN: Mr. Chairman, as a gentlemen's agreement was made, I would now call the question.

[The clauses of Bill 33 as amended agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed? Carried. [interjections]

There was a change some time ago, hon. Member for Red Deer-South and other hon. members, that in part of what the Chair reads out, there is the reporting. We stem back to the interesting Bill that we had some time ago that was brought to us by Calgary-Fish Creek, when we changed at committee stage. We've added that extra one in there, so it's no longer necessary.

Are you rising on a point of order?

AN HON. MEMBER: I'm going to put on my jacket, Mr. Chairman.

THE CHAIRMAN: Okay.

MRS. BLACK: Mr. Chairman, I move that the committee now rise and report.

[Motion carried]

[Mr. Clegg in the Chair]

MR. TANNAS: Mr. Speaker, the Committee of the Whole has had under consideration certain Bills. The committee reports the following with some amendment: Bill 33. 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 ACTING SPEAKER: Thank you, hon. member. All in favour of the report?

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed, if any? Carried.

head: **Government Bills and Orders**
head: **Third Reading**
Bill 33
Franchises Act

MR. DOERKSEN: Mr. Speaker, this is a good Bill. I move it for third reading.

MRS. ABDURAHMAN: Speaking in support of third reading of Bill 33, it would have been a better Bill if all the amendments had been accepted. I think it's fair to say that other provinces are going to be looking at this Bill, specifically I believe Ontario and British Columbia. So I would say to the government of Alberta that they've demonstrated leadership there. I wish they had gone a little bit further than that, because indeed it does protect the entrepreneur in this province who finds it increasingly difficult to get financing. Through the ability to franchise, the lending institutions look at you much more favourably. It also creates fair dealings and good faith within this Bill. You have to also recognize that south of the border, particularly when it comes to motor dealerships and also to grocery chains, the states do have franchise Acts, and it's only right that we look after the interests of our business community.

So with those comments, Mr. Speaker.

8:40

THE ACTING SPEAKER: The hon. Member for Edmonton-Roper.

MR. CHADI: Thank you very much, Mr. Speaker. I, too, want to express my gratitude to the Member for Red Deer-South for bringing the Bill forward, in fact the government of the province of Alberta for supporting this new Franchises Act. It's been a long time coming. There was certainly stakeholders' input for probably more than three years. I think in Alberta we're setting the pace, we're breaking new ground not only for this province but for all of Canada. I would hope to think that we would have created the best possible Bill. I believe we're awfully close to that, and hopefully we could continue to receive stakeholder input and continue to improve upon what we've already got. I would hope to think that we could take this Act all across Canada and model it, because I think in the years to come we will find increasingly a need for such an Act across this country.

With those comments, Mr. Speaker, I encourage all members to of course support this Bill, which I believe will happen anyway. Thank you.

[Motion carried; Bill 33 read a third time]

MR. DAY: Mr. Speaker, I would request unanimous consent of the House to waive Standing Order 32(2), dealing with the time between division bells, and ask that there be unanimous consent that we would agree that the time between division bells, should they ring tonight or in fact early on into the morning, would be three minutes.

THE ACTING SPEAKER: The hon. Government House Leader has moved – and I'm not too sure what he's moved – that if the question is called, there will be three minutes between bells till the vote is taken. Three minutes. Are you all in favour of that motion?

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed, if any? Carried.

head: **Government Bills and Orders**
head: **Committee of the Whole**
(continued)

[Mr. Tannas in the Chair]

THE CHAIRMAN: I'd call the committee to order. Hon. members, we still have nine members standing.

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

THE CHAIRMAN: When we adjourned last on this Bill, we had before us an amendment called A3, moved by the hon. Member for Calgary-Buffalo, that Bill 19 be amended in section 5 by deleting clause (a)(i). We were at that point.

The hon. Member for Calgary-Buffalo.

MR. DICKSON: Thanks very much, Mr. Chairman. I'm wanting to speak specifically to the amendment that's before the Assembly, but just before I do that, there are a couple of general comments I want to make that I think will help in streamlining the process this evening and make it clear what we're about and how best we can do it.

Mr. Chairman, I'm encouraged that since I put the amendment forward on May 9, 1995, the Premier has now said publicly:

We're going to devote virtually all our energies to having those amendments debated . . . Personally, I would like the amendments either passed or defeated, but dealt with, so we can get on with putting the commissioner in place.

That was in the *Calgary Herald*, May 16. I was also encouraged when I saw the comment from the Premier in the *Edmonton Sun*, May 16, that said that virtually all the government's efforts will be placed on debating the amendments in a bid to get the law passed before the summer break.

Mr. Chairman, I think I can speak for all of my colleagues here this evening in the Liberal opposition that we're going to commit ourselves this evening to staying here until all of the amendments have been put forward, have been fully debated, discussed, and voted on. I think we're going to make a commitment that we will stay for that purpose until we've been able to achieve that, and I'm hopeful that the government will share that commitment and that we will stay in fact and not get caught up with cutting debate short.

What I'm going to do to be able to economize on time on each of these amendments is encourage specifically the minister responsible for Bill 19 to stand after the amendment is put and after there's been some opening explanation. I'm going to ask the minister in a brief and succinct fashion to set out his opposition, if there is government opposition to it. I think that would be very helpful to certainly my colleagues in being able to focus our debate to meet the very specific objections, if there are any, from the responsible minister. That may help us from wandering. So I invite and request . . .

AN HON. MEMBER: Or his approval, Gary.

MR. DICKSON: Or the approval from the minister, of course. I'm going to request the minister to assist all of us in that fashion. I think that will help us to keep on task and able to move this debate along crisply this evening.

THE CHAIRMAN: The Chair would note that this is a request and that hon. members have no power to demand of the minister whatever, nor do I as Chair have that, but it's put forward as a request.

MR. DICKSON: Absolutely, Mr. Chairman. I didn't presume that anybody on this side has the power to demand or command the hon. minister to do anything. I'm making an assumption that everybody in the Chamber this evening is anxious that we move on, that we deal with the merits of Bill 19, that we deal with it in a crisp and a focused fashion. My suggestion is made simply in good faith to help us expedite the process. If the minister has a contrary suggestion in terms of how we can be productive this evening and focused, then I'm happy to hear that. I'm sure the minister will have some even more creative ideas. But from having sat through a lot of nonproductive committee stages, that strikes me as a very good step to get things moving along.

Some other things we're prepared to do on this side this evening to get things focused. The Clark amendments, as we call them, actually deal with five different amendments, but we're going to be debating them collectively. We're going to be asking for a single vote on them. We expect that there will be perhaps a few standing votes this evening, and we've of course accepted the suggestion from the Government House Leader.

8:50

THE CHAIRMAN: Hon. member, we have allowed a great deal of latitude. In actual fact we're all discussing amendment A3. Maybe if you're going to go on with explanations, we should have the vote on A3, get it off, and then go into further explanations, if you're going to talk in general terms.

MR. DICKSON: Mr. Chairman, I'm happy to do that. I'm looking to save time tonight, and what I'm in the process of doing now in fact is economizing on time. I can make these comments in the context of different amendments, but I thought this was the most efficient way of doing it. I'm happy to take your direction, and I'll focus more specifically on the merits of the amendment in front of us.

Mr. Chairman, the purpose of this amendment that's been designated A3 is to accommodate things that the Ethics Commissioner currently does outside of his statutory duties. If the Ethics Commissioner were operating solely and exclusively . . .

THE CHAIRMAN: Hon. member, we have someone rising on a point of order.

The hon. Member for Clover Bar-Fort Saskatchewan.

Point of Order Amendments

MRS. ABDURAHMAN: Yes, Mr. Chairman. Maybe I'm not listening attentively enough. I understood that we're dealing with an amendment, but I don't have the amendment before me.

THE CHAIRMAN: The hon. member is reminded that this was handed out. This is from the last time we were in committee, at which time every member of the House received a copy of the amendment, which is A3, and I did read it out. Subsequent to this I think we'll receive new amendments, but this was from the last time we were in committee.

MRS. ABDURAHMAN: I apologize.

MR. DICKSON: Well, no, in fact I apologize to members. I had assumed that maybe there were more copies sitting around on desks. The amendment here is that Bill 19 be amended in section 5 by deleting clause (a)(i).

Debate Continued

MR. DICKSON: As I was saying, Mr. Chairman, if the Ethics Commissioner were operating solely and exclusively within his statutory mandate, there'd be no need for this amendment, no need at all. If members refer to section 4 of the Freedom of Information and Protection of Privacy Act – this is a section that appears on page 10 of the Act – it's misdescribed in the marginal note. The marginal note says, "Records to which this Act applies." In fact, this doesn't talk about records to which the Act applies. Everything mentioned in section 4 is completely outside the scope and purview of the Freedom of Information and Protection of Privacy Act, outside the purview of the commissioner. The one that's particularly relevant to this amendment is section 4(1)(c), that says:

This Act . . . does not apply to the following . . .

- (c) a record that is created by or is in the custody or under the control of an officer of the Legislature and relates to the exercise of that officer's functions under an Act of Alberta.

Now, when I first read that, I assumed, perhaps naively, that everything the Ethics Commissioner did in the course of his duties was already outside the scope of the Act. So my question when I saw Bill 19 was: what on earth are we doing with this special provision that says that this other kind of information the Ethics Commissioner has is somehow going to be treated in a different way? Well, when I made some enquiries, what I was told was that the Ethics Commissioner currently has appropriated or been conferred a whole area of responsibility for which he has no statutory authorization. What he's doing is he's consulted by people in the civil service who come to him and say: "Mr. Ethics Commissioner" – I guess; this is what I've been led to believe – "is this proper? Is this a conflict situation?" or whatever, and the conflicts commissioner gives those people advice.

Now, I don't have a problem with people in government seeking advice and information on conflicts, on ethical conduct, but it seems to me to be just basic bad practice to be dealing with that without addressing the statute that gives that Ethics Commissioner his authority. The statute, of course, is the Conflicts of Interest Act. The sections there – I've made a note in some place on my confused and muddled desk of the relevant portions of the Conflicts of Interest Act. I'm thinking of section 13, section 23. What one finds when one looks at the Conflicts of Interest Act is that there's no plenary jurisdiction, there's no sort of catchall, residual jurisdiction the Ethics Commissioner has to operate. He has a specific responsibility. It's defined by statute. What the government proposes to do in Bill 19 is sort of – and it's kind of a de facto backdoor basis – I guess implicitly acknowledge that the Ethics Commissioner is doing some other things and give some protection, when all we have to do is simply amend the Conflicts of Interest Act.

Now, what I had done, I guess, was go back and look at the purposes of the freedom of information Act. I encourage members to look at section 2, because when we look at parts of Bill 19, we see how they measure up. Section 2 lists five different purposes for FOIPP, Freedom of Information and Protection of Privacy Act. The first one is 2(a), the only one that applies to information generally that people try and get from government, and that says:

to allow any person a right of access to the records in the custody and under the control of a public body subject to limited and specific exceptions as set out in this Act.

So I think what happens, then, is that there are two tests that we have to measure any proposal to add to section 4 in the freedom of information Act, because that's taking it outside freedom of information. The first test, test A, would be: is this a specific and a limited exception? The second test would be: can it be adequately justified?

Now, speaking to amendment A3, Mr. Chairman, I'm a member of the Legislative Offices Committee, and that's the committee, as all members know, that supervises all five legislative officers. What's interesting is that I've observed in that committee a particularly keen concern on the part of the government members of that committee to make absolutely certain that each of these legislative officers is operating narrowly and tightly within their legislated mandate. I find it curious that there's that kind of rigorous scrutiny and monitoring. Here we get a case where we have a legislative officer who's way outside the mandate, the scope, of what the Conflicts of Interest Act says he can do, and the government in fact condones it through the back door.

Mr. Chairman, I think informal practices are fine, but this is something that I think we have a responsibility to address. Now, on balance, as I said before, I think it's better that government employees seek advice on potential conflicts or conflict situations.

So what I did was I asked the hon. Minister of Public Works, Supply and Services. I went to him and I said: Mr. Minister, I'd be happy to withdraw this amendment if I simply get a commitment from the minister that before the end of the calendar year he will introduce a very simple amendment to the Conflicts of Interest Act that says that the Ethics Commissioner has the mandate and the power not only to do what's provided for in section 13 and section 23, but he'd also have the power to be able to give advice to civil servants generally or civil servants at certain levels or certain categories. If the minister would give that kind of commitment to me and to my colleagues in the Legislature, then I'd be happy to withdraw the amendment and move on to the next one.

9:00

Now, I'd asked the minister that when we last dealt with this, I guess on May 9, and my understanding is that he feels he can't do this. He's given me an explanation. I don't want to breach any confidence, so I'm going to ask the minister now to share with all members the explanation in terms of why he cannot give me, cannot give members in this Assembly what I think is a fairly modest request: confirmation and a commitment that the government before the end of this year will amend the Conflicts of Interest Act to expand the mandate of the commissioner to allow him to do through the front door in a straightforward fashion what he's doing currently de facto outside legislative sanction. I'm hopeful, Mr. Chairman, that if the minister would give us that explanation, members would then know where they stand. Alternatively, if the minister now is prepared to stand in the Assembly and with the support of the government say, "Calgary-Buffalo, we're happy to give you that commitment; we're happy to give you confirmation that before the end of this calendar year we'll bring that amendment," and if they maybe need the spring session to do it, I think there's that kind of flexibility too. Then we'd be able to get on to the other amendments that relate more directly to the process of FOIPP and the machinery.

I'm going to sit down for a moment and give the minister a chance to stand up and perhaps give us that kind of assurance, Mr. Chairman. Thank you.

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

MR. FISCHER: Thank you very much, Mr. Chairman. I am happy to give you an explanation about why senior officials cannot be included in the Conflicts of Interest Act. If we go back in the history of how the Conflicts of Interest Act was put into place, there was Judge Wachowich's study that made some recommendations on putting the total Conflicts of Interest Act into place. In that study there were a number of issues which indicated that senior officials – it wasn't a recommendation, but they did talk about the senior officials in that particular study. If we should want to put the senior officials under the Conflicts of Interest Act, after they are out of their duties as deputy ministers for instance, then they would be in the same position as MLAs or cabinet ministers would be, where they would not be able to take on a job until a certain time period was up. It was felt at that time by this House – and it was fairly firm at that time – that it was not a proper decision to say to the senior officials that they have to wait for a long time before they can go back into another government job.

There were some other issues involved with that, and it was felt that if they were going to put into that Act about the senior

officials, then they were also going to have to put a lot of other exemptions in there to allow them to do that. When we put this freedom of information Act together, they wanted to make it clean so that the commissioner was allowed to give advice to our senior officials. This way it is clear, clean, and in this Act.

Thank you.

MR. DICKSON: I thank the minister for rising to give an explanation. I guess I still have the same problem as when I heard the explanation privately, Mr. Minister. The proposal is not to talk about cooling-off periods for senior civil servants – I understand that's been addressed – but, with respect, I suggest it does not involve that. All that has to happen is for the government to say that among the range of responsibilities the Ethics Commissioner has, he has the ability to be able to give advice to members of the civil service, because what we're doing with this particular amendment is dealing with sort of the consequences of the consultation without saying that he can do it. That's the only commitment I'm asking for. I mean, I understand that it's already been debated in this Legislature, and the last government determined that they would not make senior civil servants subject to a cooling-off period, but that is, with respect, a very severable, collateral issue to the narrow one. Why not simply say that the Ethics Commissioner has the power to give advice on matters of ethics and ethical practices to senior civil servants? Why can't we do that?

MR. FISCHER: I'd just say that, yes, we're doing that now, and we don't need to have it legislated.

MR. DICKSON: Mr. Chairman, there's little else to be said. I think I've raised my concerns on this particular amendment, but I'm going to encourage the minister, quite irrespective of the vote, to look at this, because it's inconsistent with everything else his government said they want to do. If you're going to start allowing legislative officers to start doing a bunch of things that are outside their legislated mandate and then building in, after the fact, some protections and some indemnities and that sort of thing, you've created the very thing you wanted to avoid. I understood the minister to say that he wanted to make it clean. I understood him to say that he wanted it to be clean, and I think in effect what we have is something that's tremendously confusing.

Those are the comments I wanted to make, and I'd suggest we move on to the vote on this amendment, Mr. Chairman.

[Motion on amendment A3 lost]

MR. DICKSON: Mr. Chairman, I was going to make some initial comments before, and then you raised a concern that I was straying from the amendment. The amendment has been disposed of, so I'm going to go back and finish off the more general comments I wanted to make that I thought would speak to how we can expedite the process.

I think I'd left off mentioning that we'd be happy to support the proposal to bridge the time for ringing of the division bells.

I just want to be clear as well, because there's been some question about how long Bill 19 has been in committee and so on. I thought it was important to say to members who may not have been here on the other two occasions that the Bill was at the committee stage on only two previous occasions previous to this occasion, and those are at pages 1435 and 1666 in *Hansard*. So this is the third occasion that Bill 19 is up in committee.

I think *Hansard* should be clear, Mr. Chairman. I'm concerned that the minister said in *Hansard* the other day, on May 15, that Bill 19 would be up that night, and to be fair to the minister, *Hansard* should reflect it. That may well have been the minister's intention, but last evening Bill 19 was not up. So this is the first time that we've got to Bill 19 in committee since last week. [interjection] I think the hon. Minister of Energy is anxious to join debate, so I've got some questions that I may have for her later.

9:10

The only other comment I want to make in terms of people saying that we spend too long on this Bill at the committee stage is that Bill 3 was in committee on four different occasions and Bill 6 was in committee on four different occasions.

One other general observation I want to make, and I know from previous committee stages – I've taken a little good-spirited needling about being too technical in looking at the amendments to Bill 19. I think, as we've been told by Mr. Flaherty, the information commissioner of British Columbia, and Mr. Wright, the information commissioner in Ontario, that this kind of legislation is of necessity technical, that freedom of information legislation tends sometimes to turn on nuances and pretty discrete and modest differences. Those kinds of small differences can make the difference between genuine openness, on the one hand, or an opaque wall of secrecy on the other.

The other comment would be that with a Bill like freedom of information, once it's passed – and this has certainly been the experience in British Columbia; it's been the experience in other jurisdictions – governments quickly lose any appetite to go back and revisit it and amend it and change it.

The best example is the federal legislation that's now some 10 years old. There was a committee of Members of Parliament that reviewed the federal freedom of information regime and made what I thought was a pretty compelling report called *Open and Shut*. I'm paraphrasing, but I think it was the case for amendment of the federal freedom of information law. What was interesting is that despite all of those recommendations – and there is a large volume of recommendations that came from the House of Commons committee – you know what, Mr. Chairman? The government refused to move on almost all of them. I think that's because freedom of information laws, once they're brought in, scare governments. It doesn't matter what political party the government in power represents; governments tend to feel threatened by these things, and they're reluctant to make the changes. That's why I think it's important that to the extent it's possible, we try and get it right right from the start.

Mr. Chairman, I just want to say one other thing because I don't want to get caught on this later. I understand the practice of the Legislature is typically to take amendments sequentially by the chronology of sections in the Bill. I've been requested by the hon. minister to come back to the amendments that relate to the police commission later. There's one that I'd introduced and withdrawn. There's another one that hasn't been introduced yet. The minister wants to come back and deal with those after we've dealt with the other amendments. I don't have a particular difficulty with that, but I don't want to be trapped later or caught later with somebody saying that it's out of order. So I take it that that reference in *Beauchesne* we're not bound by, and we can go in random order. I see the Chair nodding and the distinguished Parliamentary Counsel nodding, so I'm going to take that as acquiescence and proceed on that basis.

I have a further amendment then. I'm going to ask my colleague here to deliver this to the Table. It's been duly initialed by Parliamentary Counsel. Thanks very much.

This amendment, Mr. Chairman, is to section 5 of Bill 19, and it would delete clause (a)(iii). I'll just wait a moment while that amendment is being distributed.

THE CHAIRMAN: The hon. member has provided the Table with sufficient copies. They are indeed signed in the appropriate places, and the Table will name them A4.

MR. DICKSON: Mr. Chairman, one of my colleagues asked what page. Just to focus people, if you turn to page 4 of Bill 19, we're still dealing with section 5. Section 5 amends section 4 in the Freedom of Information and Protection of Privacy Act. Section 4 is the section I spoke of before that excludes things from freedom of information. So everything we find in section 5 is an expansion of areas and programs that are outside and out from under the scope of freedom of information.

Sorry, Mr. Chairman; I can't read your cue.

THE CHAIRMAN: I just wanted to make sure that Calgary-Buffalo has moved it. The suggestion has been made. This is not an order; it's only relaying a suggestion that perhaps you might want to put forward a number of amendments so that we could circulate them around prior. But that's entirely up to yourself, hon. member. In any event, if you'd move A4.

MR. DICKSON: I do indeed, Mr. Chairman, move A4 to amend Bill 19 in section 5 by deleting clause a(iii).

Mr. Chairman, the issue I think raised here is driven by section 4 in the Act, which lists a huge number of exceptions. One of the comments made at the time we dealt with this in 1994 was: "Okay. We've got the exceptions, and we're going to try and keep these things tight." I mean, the point is that if you go back and you look at section 2 of the Act again, all records should be accessible if they're "in the custody and under the control of a public body subject to limited and specific exceptions." What we see is that the exceptions continue to grow and continue to grow and continue to grow.

I think one can reasonably ask: why do we have to take all of these things out from under freedom of information? We've already got a number of registries. We say a record and a registry, that the Act doesn't apply to it. So my question here to the hon. minister is: when does this stop? I mean, where do we say that soon there's going to be little that you can access under freedom of information because we keep on taking more and more, all the registry information. That's information that Albertans are concerned about.

[Mr. Clegg in the Chair]

I think, recently, of some cases where registry offices have two concerns. First, many of them are being privatized, being turned into delegated regulatory organizations. What we see is that the security, in terms of information they have, sometimes isn't equivalent to the security government had provided. We find old computers and hard drives and computer disks and diskettes in landfill sites, refuse bins, that sort of thing. I think Albertans have reason to be concerned, and so I'd ask the minister for an explanation, as specific and focused as he can give it, in terms of

why it's necessary to take all of these three things out from under the scope of freedom of information in this province.

9:20

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

MR. FISCHER: Thank you, Mr. Chairman. Certainly these were taken out from under the scope, or we wanted to have those exempt, and the reason was that the committee that made the recommendations originally from the freedom of information study had recommended that that should be out. The Member for Calgary-Buffalo was part and did sign that study. Keep in mind the registries themselves. Most of it that I know of and I think the member knows of is third-party, private information and shouldn't be out there.

MR. DICKSON: Well, with respect, Mr. Minister, through the Chair, that's how we have section 16. Section 16 is the exception for personal information. So third parties are already protected. That already exists in the Act. That's one of the key exceptions in the FOIPP statute. Surely that can't be the reason why registry services would be out. Just so we're clear: it's not a question of saying the information isn't accessible, because we have a bunch of specific exceptions to cover that. This says the whole registry office is outside.

Now I suggest that in fact the government, we may have made a mistake last spring and in the spring of 1993 by allowing all of these other registry services to be accepted. I mean I'm prepared to acknowledge that was a mistake that we should perhaps have caught then, but I'm asking the minister: why leave them out of the Act rather than include them in the Act and then rely on what's a very generous third-party protection in section 16?

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

MRS. ABDURAHMAN: Yes. I rise to speak in favour of this amendment. My colleague for Calgary-Buffalo has raised a point that it appears this government is not answering. It's clearly been stated by my colleague that the right to privacy, the kind of information that should not be released, is taken care of in the freedom of information legislation that we presently have. So while he has acknowledged that when we accepted that original piece of legislation it may have been indeed in error with the exclusions that were in it originally, but to compound it by further exclusions . . . One has to ask: why is the government doing this? It's contrary to the principles of freedom of information. I get very concerned, Mr. Chairman, when after a short time of the House accepting, I would say, some good legislation, freedom of information, we start to water it down on the pretext of whether it be a part-time commissioner and we start seeing exclusions as has been clearly pointed out under section 5(a)(iii).

Now, Mr. Chairman, I would ask the minister responsible for this Bill to please indeed explain to us: what is it that this government is so concerned that Albertans can access that would be detrimental, that would be negative to society as a whole? Because as my colleague for Calgary-Buffalo has clearly stated, what should remain confidential is protected under the freedom of information legislation. So I'm puzzled as to why we would be doing this. Recognizing that we've got Bill 41 and looking at the whole philosophy of this government in this brave new world

we're facing, I get very suspicious quite frankly as to why we start seeing:

- (ii) in the office of the Registrar of Motor Vehicle Services,
- (ii.1) in the office of the Registrar of Corporations,
- (ii.2) in the office of the Registrar of Companies.

And we look at Bill 41 and privatization. So I'm still waiting to hear a sound argument or a sound reason why indeed this amendment should not be carried.

Thank you, Mr. Chairman.

MR. FISCHER: Mr. Chairman, if I could. The study and the meetings with the public all said the registries, because most of it is private information. I think the Member for Calgary-Buffalo knows full well that that is information, and they felt that all of it wasn't protected, and so that is why they put it out. Our Department of Justice also recommended strongly that that was omitted in the last Act, and it should be exempt.

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

DR. PERCY: Well, thank you, Mr. Chairman. I will speak in favour of this amendment. I know, for example, in my capacity as a Treasury critic that these are areas I do go through extensively in terms of the type of information I require, and I know full well that section 16 provides that buffer in terms of privacy for third parties. So I find that . . .

AN HON. MEMBER: It's supposed to.

DR. PERCY: And it does, but this goes above and beyond what's required, Mr. Minister. There is already section 16. So the issue is: given that there is an element of protection already provided by section 16, why this blanket exclusion? That's really the issue for a number of members on this side of the House. This is a blanket exclusion of these records. As I say, I think it was left out in the first round. I think it ought to be left out in this round, and I very strongly support the amendment that has been brought forward by my colleague from Calgary-Buffalo.

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

MR. DICKSON: Thanks, Mr. Chairman. I wonder if the hon. minister could assist me. He's referenced the report of the all-party panel from November 1993. Would the minister be good enough to cite a reference? I've got the report in hand. I've reviewed it. I'm not able to find the authority he said is there that said these registry offices would be outside the Act. I wonder if the minister would be good enough to take me to the specific exception. There may be some other members who wish to speak in the meantime, but I'm hoping the minister will get up and point me to the page and that item. I don't recall at any point our specifically saying that this registry office should be outside the scope of freedom of information, Mr. Chairman.

Thank you.

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

9:30

MR. CHADI: Thank you, Mr. Chairman. I, too, want to speak to the amendment and, in fact, in favour of the amendment as

presented by the Member for Calgary-Buffalo. In looking at the Freedom of Information and Protection of Privacy Act that we've now got in the province, Mr. Chairman, clearly section 16 states that in terms of disclosure harmful to personal privacy

the head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

Now, it's quite clear that it's already embedded in the Act. What the hon. minister was afraid of and the reason for the amended version as drafted in Bill 19 - he's asking now that section 4(1)(h)(ii), saying "in the office of the Registrar of the Motor Vehicles Division" now be deleted. What we're doing is broadening that clause to include the registrar of motor vehicle services, registrar of corporations, and documents in the office of the registrar of companies.

Now, of course, we've broadened that, and the explanation given by the minister was that it would be harmful to disclose personal information that relates to third parties. Quite clearly it's embedded in the Act, and for the minister to stand up and say that the legal people in his department did not agree with that and that is the reason why we've now got this amendment before us in Bill 19 is not acceptable. I want to know why the legal people in his department said that we needed to have this, notwithstanding the fact that it's already in section 16. It's covered in section 16, hon. minister. Explain to us why the legal people in your department wanted to yet expand it further.

With those comments, Mr. Chairman, I would now allow hopefully the minister to respond. Thank you.

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

MR. FISCHER: Thank you very much. On pages 17, 18, and 19 under exemptions and personal exemptions and third-party privacy it explains it. That was the wish of the public, and that was the wish of the member that signed the study, and that was the wish of this Assembly when we put it in. It got mistakenly omitted, and it should be in there. I'm sure that every member in here wants it in there when it comes to your own personal records. I don't understand why you can't read it and listen.

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

MR. CHADI: Thank you very much, Mr. Chairman. In response to comments made by the minister as to why perhaps members of the Legislature would in fact want to include it, because we might want to protect ourselves for some reason, I can tell and assure the hon. minister that any time I want to search records with respect to corporations that are owned by the hon. minister, one can do that without the freedom of information Bill as it exists already in the laws of this province. I can't see why I would want to hide anything. I've disclosed to the Ethics Commissioner as every single Member of this Legislative Assembly has in fact disclosed to the Ethics Commissioner all of their assets. There is nothing to hide. You can go right now and you can find out anything you want about the shareholding structures of any corporation that we've got.

You're talking about the registrar of corporations and the registrar of companies and motor vehicle services in this amendment. So it already exists. The laws are there. We can go and search that like I can go and search the title to the minister's

house to find out if he's got a mortgage on it or not. I mean, it's that clear. We can do that nowadays in the province of Alberta.

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

MRS. ABDURAHMAN: Yes, Mr. Chairman. I was listening to what the minister said, and in response to Edmonton-Roper's comments he said: you weren't listening. Now, to give him the benefit of the doubt, I'd like to hear once again the justification for this amendment, because either I'm not listening well or I'm missing the point that the minister is trying to communicate. Section 16(1) clearly shows that the privacy is there. Edmonton-Roper has clearly stated what information is available to any Albertan today.

So with due respect, Mr. Chairman, I'd ask once again for the minister to please clarify so I can clearly understand what it is that we as the Official Opposition are missing in this. I mean, explain once again, please, hon. minister, because certainly I did not hear a reason, quite frankly, why this amendment is before us. You were indicating that we weren't listening. Well, maybe I wasn't listening attentively enough, and I'd like to hear that reason.

MR. DICKSON: Mr. Chairman, I see that the hon. minister isn't rising to respond to the invitation of my colleague from Clover Bar-Fort Saskatchewan.

I think there's little else to be said to the amendment. I'm going to simply urge members to understand that there are always two ways of dealing with freedom of information. I see the Member for Peace River here, who certainly has some particular experience from being part of that all-party panel. The Member for Peace River will remember that we were told repeatedly by people: don't have blanket exceptions if they can possibly be avoided; make sure the exceptions are narrowly defined and specific.

I just want to come back and read to the members again the purpose section, clause 2(a) of the Act.

- (a) to allow any person a right of access to the records in the custody and under the control of a public body subject to limited and specific exceptions.

This is not a limited, specific exception. It's a very broad exception. That creates problems. I urge all members to support this amendment, and then the next step would be to look at some modification to the Bill itself.

[Motion on amendment A4 lost]

MR. DICKSON: Mr. Chairman, I was getting worried that people were nodding off, but when I hear that kind of exuberant participation in the vote when it counts, I guess people are still with us. I take some heart from that. I particularly take heart because the next amendment I think is one that should get every member standing up and involved in the debate.

THE DEPUTY CHAIRMAN: Hon. Member for Calgary-*Buffalo*, I was talking to Parliamentary Counsel here. Were you finished, or are you letting this be distributed?

MR. DICKSON: I think there was a point of order opposite.

THE DEPUTY CHAIRMAN: Oh, sorry.

The hon. Member for *Whitecourt-Ste. Anne*.

Point of Order Amendments

MR. TRYNCHY: Mr. Chairman, I wonder if the hon. member would pass out all the amendments so we don't waste time between each vote, so we can see them. Lay them on the table, and we'll go through them one by one. What's he afraid of?

MR. DICKSON: Mr. Chairman, I'm happy to respond to the suggestion. I guess being the perennial optimist, I keep on hoping that we're going to see some positive reaction to some of these amendments. It may change the sequencing of amendments, and my concern is that we have alternative amendments. If I get too much paper on your desk, hon. member, my concern is that you may not be clear on the specific amendment I'm dealing with. [interjections]

THE DEPUTY CHAIRMAN: Hon. members, I'm having a great lot of difficulty. I have great hearing . . . [interjection] No, I'm not. Hon. member, I'm not. But everybody's talking at once.

On the point of order from the Member for *Whitecourt-Ste. Anne*, I didn't hear what you said, hon. Member for *Calgary-*Buffalo**. I'm sorry.

SOME HON. MEMBERS: He said no.

THE DEPUTY CHAIRMAN: No. Okay then. Distribute A5.

9:40

Debate Continued

THE DEPUTY CHAIRMAN: Would the hon. government Whip and the hon. Member for *Whitecourt-Ste. Anne* please either go out in the lobby or sit in their chairs? Give the hon. member at least a chance to put the amendment on the floor.

The hon. Member for *Calgary-*Buffalo**.

MR. DICKSON: Thanks, Mr. Chairman. This, I want to signal right off the bat, is perhaps one of the most important amendments in the bundle we're putting forward tonight, and I'll formally move it. I move that Bill 19 be amended by repealing in section 5(a)(iv) clauses (j), (k), and (l).

Now, Mr. Chairman, one of the things that was unique about the Freedom of Information and Protection of Privacy Act that was passed last spring was the fact that this province had the courage to include the Office of the Legislative Assembly in terms of those government offices that would be subject to FOIPP. Quebec is the only other province that has done so. The other provinces have accepted the Legislative Assembly records and said that people in those provinces could have no access to them.

There are two key issues that come out of this particular amendment, Mr. Chairman. The first one is that records the Legislative Assembly Office has that are not otherwise exempt or accepted cannot effectively be accessed. What this does is it rolls back. With the Freedom of Information and Protection of Privacy Act last year we had taken a big step forward. We had been very progressive. It had been a very bold step, something the Premier could truly be proud of in this flagship legislation. What we're now doing is rolling back the veil of secrecy. Having teased Albertans with the prospect of being able to get that kind of genuine accessibility, now they find that they're about to lose it and the curtain is coming down. Two issues.

So the first issue is that information in terms of MLA expenses, accommodation and travel and committee expenses, will no longer be accessible under Bill 19. What's of interest is – and I under-

stand that this will not be a popular amendment in this Chamber. What Mr. Flaherty, the Freedom of Information Commissioner in British Columbia, will tell you is that one of the most commonly sought kinds of information is in terms of what MLAs are paid and what they spend to use their offices.

Now, some members may naively think that there's already access to this kind of information, but it just isn't so, Mr. Chairman. In fact, the government's idea – and I'll try and anticipate some of the objections we'll hear from the hon. minister on this. Firstly the minister is going to say, "Telephone records": we're concerned that if Jane or Joe Btfsplk want to raise a constituent concern with the Member for Calgary-Buffalo, unless section 5 and this particular part of Bill 19 goes through, somehow those persons' names may be available to the media, to other people who are interested, or anybody who makes a request. The reality is that that's already adequately covered in section 16, and I'll come back and talk about why it is already adequately covered in section 16.

I think the point is that what the government says should happen is that people don't need to be able to access information in terms of MLA expenses and perks and so on because there's an annual report in terms of what is paid to MLAs. The problem with that, Mr. Chairman – and I'll use this last year as an example. On November 30, 1994, there's a letter from the Provincial Treasurer to the Speaker of the Legislative Assembly that lists a report for the year ended March 31, 1994. So the information people get could be 17 months after the date of a transaction.

Now, what happens is some members may say, "Well, what's the big deal about that, because you can get some of the information, albeit later?" Well, the point is simply this. Those of us who were on the all-party panel, certainly the Member for Peace River, the Member for Calgary-Fish Creek, will recall this. What people said is that we need to bring together in one statute, to the extent it's possible, all of the ways people access information. What you want to do is be able to consolidate, make it accessible so any Albertan who wants information, whether it's about a program in the Department of Health, whether it's about what a particular MLA claims by way of travel or housing or accommodation or whatever – it can be accessed through the same process.

There's an important principle here that Albertans have paid for this information. Now, I know there's that one argument that the information is available in the end of year report that comes to the Speaker's office, but that's information delayed, and it tends to not be specific information but general information that's grouped in a pretty unsatisfactory way.

The other concern I just wanted to come back to that government members have raised has been that this may compromise telephone numbers or names of individual constituents. I think the best response to that is to refer members to section 16 and to say that it's absolutely a red herring to say that personal constituent information is somehow going to be released if this applies. The reason is this, Mr. Chairman. I've got a legal opinion I had provided because I wanted some ammunition. When the Minister of Public Works, Supply and Services said to me: Calgary-Buffalo, if we don't get this amendment in section 5 in Bill 19, we're going to have a problem with personal, third-party information being disclosed and compromised. So I asked for a legal opinion, and the opinion I got was that section 16 provides all the coverage any third person needs. Section 16(1) of the FOIPP Act says:

The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

Then section 16(2) goes on to describe what would constitute an "unreasonable invasion."

The opinion I've got says, and I quote: the interesting area, though, which in my opinion pre-empts the government's position that there should be an exemption of the Legislative Assembly Office for the provisions of the Act in the area of division 3 of part 1 – under section 29 it states:

(1) When the head of a public body is considering giving access to a record that may contain information . . .

(b) the disclosure of which would be an unreasonable invasion of a third party's personal privacy under section 16,

the head must . . .

It's not "may."

the head must subject to section 28, where practicable and as soon as practicable, give written notice to the third party in accordance with subsection (3).

So the notice is given to the third party. Once given, there's a 30-day wait after the notice has been given pursuant to section 30 for the head of the public body to decide.

There's also further provision for review under section 62, once again to protect third-party information. Section 62 provides that a person who makes a request to the head of a public body for access to a record or for correction of personal information may ask the Commissioner to review any decision, act or failure to act of the head that relates to the request.

Section 62(2) provides that

a third party notified under section 30 of a decision by the head of a public body to give access may ask the Commissioner to review that decision.

So we've got a right of disclosure. It's modified by section 16. In turn, the person whose personal information is being requested is further protected under the provisions of part 1, division 3, and finally an appeal to the commissioner. So I think the Department of Justice must have provided the same legal opinion to the department. I think Albertans are entitled to this information.

9:50

The other comment to be made – I've heard this from government members. They've said: you know, we're going to have newspaper reporters, we're going to have media people who are going to be prying around and trying to find out how you spend your travel allowance, how you spend your accommodation allowance. [interjection] The Minister of Energy, I'm hopeful, is going to stand up and share on *Hansard* so everybody can hear her contribution to the debate, Mr. Chairman, not just a few of us.

The point is that the information should be available. Albertans pay for it. I don't think that any member should have any reason to be uncomfortable with seeing that information being made publicly available.

With that, I'll sit down and let other people participate in the debate on this amendment.

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

MR. FISCHER: Maybe I could save just a little bit of time in debate here on this particular amendment. The freedom of information and protection of privacy report indicates on page 11 that "the office of a member of the Legislative Assembly should be exempt from the Act." Now, when the member gets up and talks about all of the things that he wants to find out and so on about the Act, almost everything that is public information is already out there for the public to have. When we say that we want to have – I shouldn't say we. When the members of the

public say that they should have that exempt from the Act, there are some very good reasons. When you have the constituency offices exempt from the Act, then surely you shouldn't be able to go through the back door and find out some of the things that you couldn't find out from the constituency offices by going through the Leg. Assembly. I know the member understands that. I know he wants to give us a load of his information here, but I don't think we can go away from the intent of what was proposed in the report.

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

MRS. ABDURAHMAN: Yes. Thank you, Mr. Chairman. I would hope that every member in the Legislature would look at the amendment that's been brought forward by my colleague from Calgary-*Buffalo* because, indeed, this amendment to Bill 19, which is amending the Freedom of Information and Protection of Privacy Act, flies in the face of what the Freedom of Information and Protection of Privacy Act was attempting to do.

For a minister of the Crown to stand up and suggest that by this amendment to Bill 19 somehow we're going to go through the backdoor into our constituency offices quite frankly I think is insulting. When we look at section 15, 16(1), going on right through 16(2) and 16(3) of the Freedom of Information and Protection of Privacy Act, everything you need to protect the privacy of an individual, from the type of information that should not be released, is there.

[Mr. Herard in the Chair]

When I think back to the provincial election of two years ago, June 15, one of the things that we kept hearing from Albertans was the full accountability of their elected officials, how their dollar was being expended, and how it was perceived by Albertans and Canadians that there was a gross abuse of the public purse by their elected officials. Now, after the fact, after full consultation and a good Act being adopted by this House, I would suggest that the backdoor stuff is being done under Bill 19, and that is indeed asking for the inclusion of a personal record or constituency record of a member of Executive Council.

Now, this amendment should be carried because in essence, Mr. Chairman, what should be public information should be disclosed. If it shouldn't be disclosed, the present Freedom of Information and Protection of Privacy takes care of it. Quite frankly, I remember a member who was the Deputy Premier at the time waving a telephone bill with great glee and saying that it was a Liberal one. That is what we need to be protected from, where an elected official comes into this Assembly, uses a document that under the Freedom of Information and Protection of Privacy Act indeed would have violated the disclosure with regards to personal privacy. Because every constituent should feel under this freedom of information and protection of privacy that indeed their privacy is protected in the constituency office and in the Legislative Assembly offices when they're dealing with their own MLA or with a government member or an Official Opposition member.

Then what do we see this government doing? Coming in with an amending Bill soon after we've adopted a good piece of legislation. One has to question: why are they doing that? What is it they're wanting to hide? Well, quite frankly, Mr. Chairman, I believe that what they want to hide is the backroom deals where we see certain members of the Legislature having their annual

incomes boosted up. I'll be quite frank with you. The Minister of Energy says: oh, the media publishes that. That's not the way Albertans should have to get their information. They should feel comfortable that they could walk in under freedom of information legislation and ask for that information, whether it's on the Member for Clover Bar-Fort Saskatchewan or the Member for Calgary-*Buffalo*. That's how Albertans should have to do it. We shouldn't have to wait for the media to dig to see what they come up with before we know how our public dollars are being expended. To say that the Freedom of Information and Protection of Privacy Act, under sections 15, 16, and right through, doesn't do it is insulting.

Thank you.

Chairman's Ruling Decorum

THE ACTING CHAIRMAN: Hon. members, before recognizing Edmonton-*Whitemud*, those who want to have conversations with others in this Chamber or indeed with people in the galleries should perhaps make arrangements and go out and talk to those people directly.

The hon. Member for Edmonton-*Whitemud*.

Debate Continued

DR. PERCY: Thank you, Mr. Chairman. Several points I would like to address. I wholeheartedly support this amendment to Bill 19 for three basic reasons. The first is that when all of us ran in the last election, a basic issue was the credibility of those involved in politics. I think any mechanism that allows for greater transparency, particularly with regards to financial dealings, can only make us all better off.

As my hon. colleague from Calgary-*Buffalo* has stated, in section 16 of the Act, in part 1, division 3, which deals with third-party interventions, there is full protection for the individual records of our constituents who would call or anybody that comes to us in our role as an MLA. That's part of the privilege that we have being an MLA. My colleague from Clover Bar-Fort Saskatchewan highlighted the concern that all of us felt when an hon. member waved our telephone records about with glee. Obviously that minister must have checked what the numbers were because he stated to whom some of the calls had been made. I mean, we not only had the records there; there was obviously follow-up with those records. So that issue concerns us all. We know and certainly if you look at the legal opinion, it's very clear that those types of records are protected.

10:00

Now, the hon. minister said in reply to Calgary-*Buffalo* that on page 11 of the report on public consultation it says, "The office of a member of the Legislative Assembly should be exempt from the Act." Fine. But unfortunately the hon. minister forgot to look one line up, where the report says, "Include the Legislative Assembly Office in the Act." That's what it says. That's what the all-party committee had called for: "Include the Legislative Assembly Office in the Act." So there was a bit of a sin of omission on the part of the hon. minister in terms of his reference to the report of the public consultation. That's an important point. I think that in terms of transparency, in terms of what many of us ran on in the last election, greater accountability, greater transparency would be enhanced by accepting this amendment. We have absolutely nothing to lose by having our records out in the open.

I recall to hon. members what happened in British Columbia I think it must have been about 10 years ago. If you just mention

the name Pouilly Fuisse Kid, that was a cabinet minister who had an unfortunate taste for expensive wine. He was basically run out of the cabinet relatively quickly once it became known what he was spending public money on in performing the functions of his office. I think that type of direct accountability in terms of the expenditure of public money is welcome, and you do get that by this type of freedom of information.

So this amendment is constructive. It helps us all in re-establishing the credibility of politicians and the political process. It's consistent with us being far more accountable. All of the concerns about privacy are dealt with either through section 16 or in part 1 of division 3 of the freedom of information Act.

I would just close by saying that the report of the freedom of information panel says, "Include the Legislative Assembly Office in the Act." The intent, then, of this amendment is to remove it, so I think it's completely inconsistent with what had been initially brought forward. On the basis of what is already contained in the Act in terms of protection of privacy, I think that in terms of what an independent, arm's-length legal opinion suggested, we have nothing to fear from this in terms of our parliamentary privilege and everything to gain. So I speak wholeheartedly in support of this amendment.

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

MRS. BURGNER: Thank you, Mr. Chairman. I would like to just make some comments based on the arguments that we were just hearing from the Member for Edmonton-Whitemud. I don't disagree with his analysis that taxpayers are entitled to a full disclosure of what happens with the office that they provide dollars for. I think you'll find that in the practices of MLAs they are completely free to publish the use of their dollars, open their doors to the scrutiny of staff that come in or people that want to deal with the function of the MLA office.

My concern is when I have a constituent who comes into my office asking for information or assistance which requires the disclosure of personal and confidential information. I think that blanketly opening the constituency office, et cetera, to the scrutiny that the Member for Edmonton-Whitemud is asking for leaves me in this dilemma, because I'm free to now as an MLA put out the information that the public taxpayer would expect of me. So I think that there are two sides to the argument. The one is the voluntary disclosure, and the other is protection of the constituents who share information that does become confidential.

MRS. ABDURAHMAN: Mr. Chairman.

THE ACTING CHAIRMAN: Yes, hon. member.

Point of Order

Questioning a Member

MRS. ABDURAHMAN: Would the hon. member entertain a question?

MRS. BURGNER: No.

THE ACTING CHAIRMAN: You got your answer.

Debate Continued

MR. VAN BINSBERGEN: Mr. Chairman, with the indulgence of the Member for Clover Bar-Fort Saskatchewan, I'd like to say a few things here to this particular amendment.

Speaking to the amendment, actually when the Freedom of Information and Protection of Privacy Act passed last spring, it was a reasonably good Bill and some amendments had been incorporated that were proposed by this side of the House. Of course, the whole subject of the Bill essentially had been espoused by this side of the House well before that, but now what has happened in the time that has passed: obviously members on the other side have gotten cold feet, and we see that there's an increasing desire for secrecy of all kinds of innocuous records. No matter what the minister says, when I read the proposed section here, it clearly calls for an exemption of:

- (j) a personal record or constituency record of a member of the Executive Council;
- (k) a record created by or for the office of the Speaker . . . or . . . of a Member of the Legislative Assembly,

et cetera, et cetera. That is such a blanket exemption that indeed all kinds of innocuous stuff such as mileage and whatnot could be hidden. I don't understand that at all.

The Member for Calgary-Currie indicated that MLAs presently are free to provide that kind of information to their constituents, and Mr. Chairman, you'll be pleased to know that I've been doing so frequently. As I visit schools, probably the most popular question that students fire away at me is: "How much money do you make?" They want to know everything: what I get in terms of kilometrage and whatnot and so forth. The problem is, I tell them, that under this particular exemption, if I wanted to, I could hide it, and nobody could get at it. I think that is deplorable.

Mr. Chairman, surely Albertans are entitled to know that stuff. They pay for it and they ought to be able to get it soon rather than having to wait for a year and a half. I urge members on all sides of the House, especially on the other side, to remember that pledge of openness on which they ran their campaign and to not forget it.

Mr. Chairman, that's it. I hope they will listen to my advice. Thank you.

MRS. BLACK: Mr. Chairman, I think this has got offtrack somewhat. People are focusing on salaries of MLAs, et cetera. Clearly, I would like to just simply remind hon. members that the salaries that are paid and the allowances that are provided for MLAs, whether it be living allowances, et cetera, are in fact covered under the Members' Services orders, that are made public. So let's not try and confuse issues. Those have been public all along and continue to be. In fact, those are formed and debated by a select committee of this Legislature and are made public at the time they are passed. Clearly, I think every member of this Legislature has gone through the process where their annual salary is made public by the media, either the print media or in fact television. So I would hope that we wouldn't try and confuse the thought that our salaries are not made public, because I, too, have been asked what my salary is, and it's in the paper every year. There's no secret to it. Also, those salaries, if they're not picked up in the newspaper or through the reports from the Members' Services Committee, they are in fact listed in the public accounts.

In addition to that, Mr. Chairman, the allowances that are voted on by the select committee of Members' Services for the running of constituency offices are also dealt with at the Members' Services table and in fact are made public. They're broken down into the communication budgets and the operational budgets. It's based on a formula that factors in the population size of the constituency. So, please, let's not get into trying to draw that into a justification for this amendment. That clearly is just not factual information.

10:10

In the report that was prepared by the all-party committee, I would refer you to page 11. It clearly says that "the office of a member of the Legislative Assembly should be exempt from the Act." That was put in place, I believe from the understanding and the briefing that I had from our caucus members, to ensure that constituents who come to us with a variety of requests and a desire to get information, that it's not out in the public realm. It's like going into the confidences of a lawyer's office. They must have that client privilege with their MLA. Some of the requests and stories and details that do come forward should never be public because they are very personal. They can be anywhere from education issues, social welfare issues, health issues, energy issues, whatever. Those must remain private. I think that's why the emphasis has been on the constituency office. Everything else that pertains to every MLA in this Legislature is in the public view through the Members' Services orders. So please don't confuse the two together.

MR. DICKSON: Well, Mr. Chairman, just in direct response to the comments both from Calgary-Currie and the hon. Minister of Energy, three specific points. Firstly, the point here is that you shouldn't have to go to an MLA and ask for permission to get information. You should be able to get the information as a right. That's a fundamentally different proposition.

Second point. The minister refers to page 11. Well, I was on that all-party panel, and I'm happy to refer to the line immediately above that which says, "Include the Legislative Assembly Office in the Act." The reason we did that is that we recognized that what goes on in constituency offices, whether it's Calgary-Buffalo or Calgary-Currie or whatever, it's problematic opening all of that up. So we agreed that we'd treat that as being sealed and outside the Act. When the hon. Minister of Energy deals with a constituent concern on the Legislative Assembly premises, in the Annex or under the dome, section 16, as I'd indicated from the legal opinion I read from earlier, covers that off and that third person is completely covered with rights of appeal. I refer to sections 29 and 30 and 62. I mean, that's covered. That's just a nonissue. I'd encourage both those last two speakers on the government side to look at section 16. You'll find your concerns have been addressed.

The other point is that when the hon. minister talks about people being able to access information about MLA pay and perks, yes, there are some other devices and means by which some of that information can be unearthed. But why on earth, when we have an Act that the Premier has invested a great deal of his personal credibility in to consolidate the information to make it easy – this is the government that promotes one-stop shopping; isn't it, Mr. Chairman? Isn't this the government that always says to look at things from the consumer's perspective, to make it easier, to make it simpler? Here we have an opportunity to allow Albertans one-stop shopping when it comes to information, and what we hear the government saying is: we're quite happy to have it where people have to run from this office to that office and get some information within 30 days; other information they may have to wait 18 months for. That's the point, Mr. Chairman.

I'll sit down and let others address this point.

MRS. BLACK: I have to go back on this, Mr. Chairman, and say that clearly I think it's very important for constituents to have that level of comfort. When they come to an office, they usually come with a problem. They don't come to have tea. They

usually walk in with a problem. When a member on this side of the House or the opposite side comes and seeks advice from me as a member of Executive Council to deal with one of their constituents, I think they should have the confidence to know that that information is going to remain, even though it may be coming from a member opposite or one of our own members seeking advice from me to deal with a constituent who's come in with a problem – and this simply is grouping the exemptions together. That's all it is: simply grouping it together. Mr. Chairman, I really find it odd.

Now, if the hon. member is not familiar with the workings of the Members' Services Committee, I would ask you to refresh your memory on that and go back and look at the Members' Services order that deals with everything, that deals with MLAs' benefits, salaries, et cetera. It's all listed there, all the way down to the dental plan or anything else that may be there. It's all there. The meetings are public. I used to be on that committee, and the media sat in on the meetings. It's all public. It's published in a little booklet that you can pick up and read, if you're not familiar with it. But please don't try and confuse that with issues that pertain to constituents, because I think that is wrong.

MR. DICKSON: Mr. Chairman, I wonder if the minister is referring to the same committee that thought it was appropriate for MLAs in this Legislature until two years ago to have a defined benefit kind of pension plan that is still going to cost Alberta taxpayers another \$33 million by the time we finish paying out the former MLAs.

MRS. BLACK: Mr. Chairman, I would like to remind the hon. member opposite that it was this government that eliminated the MLA pension plan.

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

MR. BRACKO: Thank you, Mr. Chairman. The pension plan hasn't been eliminated for those who were here before. Get that straight: \$33 million, that the Member for Calgary-Buffalo spoke about. [interjections]

THE ACTING CHAIRMAN: Order please.

Could we stick to the amendment, please? Thank you.

MR. BRACKO: That's why citizens have a distrust of government, because they want to cover certain things up. This is why this amendment is very important, so the average person can come in and get in a simple way the concerns, the accounting, accountability of a constituency. Any member here should be able to hand it out and say, "Yes, I have it," not ask for it, or if the MLA decides to give it, then it's okay. It should be common knowledge. There's nothing to hide. They should have access to how their money, their tax dollar is spent in the constituency office or here.

The two members on the opposite side discussing confidential information – it's covered in section 16. No MLA would give that information or should have to give it to anyone else when you come to solve a problem. What we need is accountability to bring back the public trust in politicians. It's only a few that make everyone look bad. So for those reasons, there's nothing to fear except the truth itself. Everything should be made public for accountability, all materials that aren't confidential materials between the constituent and the MLA. For that reason, Mr. Chairman, I encourage all members to support this and to get rid

of the misinformation, because you have it there in fact before you.

We did this in the city of St. Albert. We made the information public, and, you know, it got rid of questions. People were able to have access to it. When you come here to look for information, it's a long process if you don't know where to start, whereas if you can go to the constituency, the MLA gives you the information concerning the constituency office. It's there. It's simple; it's straightforward, and that is what's needed.

MR. DICKSON: Mr. Chairman, I wanted to add a different dimension to this particular amendment. It's the second part, specifically section 5(a)(iv)(l).

DR. WEST: Three, two, one, zero.

MR. DICKSON: Thanks, minister of transportation.

What we have here is a really interesting provision. The government has decided that it's not enough that we treat cabinet ministers one way and MLAs one way. We have MLAs who sit as chairs of a provincial agency, and we want to treat their records as if they were cabinet ministers. I think, for example, the Member for Calgary-Shaw is chairman of the Alberta Special Waste Management Corporation. This might be called the Calgary-Shaw amendment, because when you look at those records, they're going to be treated in a particular way and a different way. The problem is, to those members who think it's appropriate that we install MLAs as chairmen of a host of these kinds of agencies and boards, that this kind of amendment simply condones what I think is fundamentally a bad practice. What we should be doing is discouraging these kinds of MLA appointments to a host of patronage posts, not trying to build in protection to treat their communications on some higher, different level than the communication of a chair.

So that's a problem as well, and I'm going to encourage all members to vote in support of this particular amendment, Mr. Chairman.

10:20

MR. FISCHER: Mr. Chairman, regarding clause (l) I think the member is totally out to lunch when he thinks that members of committees, that are doing a job and relating back and forth to ministers and to senior officials, making decisions – surely you can't have all of that public information. How can you possibly make a proper decision if you know that it could be on the front page of the paper the next day? I urge all members to just think about that a little bit. Honestly, the decision of those people on those committees will be public information but not all of the discussion back and forth and the communication back and forth. It just doesn't make any common sense at all.

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

MR. SAPERS: Thank you, Mr. Chairman. I appreciate that. It's interesting to note that the minister responsible now for shepherding through the Freedom of Information and Protection of Privacy Amendment Act, 1995, does not want to see decisions of government known to Albertans: doesn't want the media to report on them and doesn't want to see them reviewed in public. That's a dramatic and striking statement, and I'm glad that the minister shared that with us.

I want to assure the Minister of Energy that in my support of this amendment and in my encouragement of all members to vote for this amendment, I am not encouraging the Minister of Energy or any other member of the government to break a confidence of a constituent. There's absolutely nothing here that would lead the minister astray to do that, and I think it's a shame that the minister can't separate in her thinking about this amendment the good work that I'm sure she does on behalf of her constituents and the more public work that she does as a member of Executive Council and certainly the public work that she does as a member of cabinet.

Mr. Chairman, Albertans want one place to access information about MLAs. Now, when I was traveling with the all-party committee reviewing the draft legislation and the proposal for freedom of information legislation in this province and I talked to people in Fort McMurray or Peace River or Lethbridge or Red Deer or Medicine Hat or Calgary, it was striking that the one thing in common that all of those Albertans had was their desire for there to be no secrets between them and their government. The one message that kept on coming was the message that they as taxpayers deserve absolute access to the operations of government. If there was one question that was asked time and time again, it was: "Why are you keeping secrets? Why would the government want to keep secrets?" As a member of that panel and doing the job that I thought the Premier had asked all members of that panel to do, I assured those Albertans that if there was one thing we could count on with this supposedly new management government, it was that this was not a government that was going to keep secrets from the people of Alberta.

Then when we see the amendments come forward in Bill 19, unfortunately we see some kind of backsliding. We see that in fact this government wants to diminish the effectiveness of its freedom of information law, and before fully proclaiming and implementing that law, they want to change it and they want to make it more secretive. The government wants to take away the right of access of that information from Albertans. They want to deny in fact the legitimate requests that Albertans from all across this province made to that panel when they asked that panel to ensure that the law as finally proclaimed would address that most basic and fundamental question that they kept on posing, and that is: why would the government want to keep secrets?

Now, as I said, this amendment would not in any way infringe on the Minister of Energy's ability to keep the confidence of her constituents. What it would do, though, is make sure that everything that each member of this Assembly did was done in the full light of day and that everything we did could be reviewed and reviewed openly and publicly. We wouldn't have to wait for a request to go to committees. We wouldn't have to wait for reports that come at periodic times. We wouldn't have to wait for somebody else to ask. We wouldn't have to wait for the timing of politicians. In fact, every Albertan could demand and have access to the information they wanted about their elected representatives when they wanted it for the legitimate purposes that they have.

Mr. Chairman, I think it's a little bit off the mark to reject this amendment because you feel it would somehow lead to breaking a confidence or it would somehow infringe on the ability of a member to deal in confidence with a constituent. It is equally wrong, I think, to reject this amendment because the information is already accessible under Members' Services, because that's just simply not the case, not in this form and not in this fashion. Finally, it's wrong to treat committee chairs as members of cabinet. We've recently had a Speaker's ruling that makes the distinction between cabinet and committee chairs, and I think the

Legislature should be consistent. If they're not members of Executive Council, they shouldn't be treated that way.

So, Mr. Chairman, I submit that this amendment is designed to do one thing and one thing only, and that's to improve a Bill. It's to maintain the integrity of a Bill. If this amendment does not pass and if Bill 19 passes in unamended form, then this House will have done a great disservice to Albertans and all of the Albertans that made their request to that all-party panel demanding that secrets not be kept from the citizens of this province by their government.

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

MRS. ABDURAHMAN: Yes, Mr. Chairman. I listened with great interest to the comments from the Minister of Public Works, Supply and Services as to why this amendment should be defeated in relationship to the chairmen of government or legislative committees. I would say through the Chair to the Minister of Public Works, Supply and Services: show me in the Freedom of Information and Protection of Privacy Act where this indeed could happen. Where in 16(1), (2), (3), and (4) could be the scenario that you are suggesting, that all that public information would be in the front page of a paper?

The other question I have to ask the hon. minister. If it's so disastrous that the kind of information that shouldn't be shared could be on the front page of every newspaper in the province of Alberta because of the Freedom of Information and Protection of Privacy Act, it's amazing that it got past this government at the time that it became legislation. So please show me. Where specifically would it require a chairman of a legislative committee or a government standing committee to release the kind of information that you're suggesting would be a violation of privacy, that would be all over the papers or in some form of the media in the province of Alberta?

10:30

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

MS LEIBOVICI: I was slowly getting to my feet in the hope that the hon. minister would reply to the Member for Clover Bar-Fort Saskatchewan's question. Is the minister going to be doing that? It may answer some of my questions. I know I'm supposed to be asking through the Chair. Can the Chair request if the minister is willing to answer the questions right now?

MR. FISCHER: Karen, do you promise that you won't speak then?

MS LEIBOVICI: No. It depends on what your answers are.

THE ACTING CHAIRMAN: The hon. member has asked the minister a question. If the minister wishes to respond, I'm sure that he will get to his feet and he will respond.

MS LEIBOVICI: Okay. I was just checking. It sounds like the members on the other side of the House are getting antsy, and I'm not quite sure why. It's only 10:30 and we have a whole slew of other amendments to work our way through. I think that if we are to have reasoned debate in the House, it is incumbent on all the members to look at the legislation in front of them and to try and understand exactly what the purpose of this legislation is.

Now, when I look at the Freedom of Information and Protection of Privacy Act, that was passed in the last session, it did provide for certain safeguards with regards to individuals who had dealings with the government and with regards to ensuring that records that were of a private nature would not be accessible at the whim of individuals who wanted to find out what was happening in certain instances.

Now, the amendments that have been put forward by the Member for Calgary-Buffalo are amendments that ensure that the records – and I'm going to read this out, because I don't think that the hon. members quite understand what the amendments are. We're talking about

- (k) a record created by or for the office of the Speaker of the Legislative Assembly or the office of a Member of the Legislative Assembly that is in the custody or control of the Legislative Assembly.

We're talking about

- (l) a record created by or for
 - (i) a member of the Executive Council,
 - (ii) a member of the Legislative Assembly, or
 - (iii) a chair of a Provincial agency as defined in the Financial Administration Act who is a Member of the Legislative Assembly.

Now, what is a record? Is a record a personal document? Is it a letter? Is it a document that indicates what someone's health is? No, it's none of those. What a record is, as defined under the Act, is "a record of information in any form and includes books, documents, maps." These are all very confidential pieces of information that the public should not have; right? "Drawings, photographs." Well, maybe we're getting into some nitty-gritty details there. "Letters, vouchers and papers and any other information that is written, photographed, recorded or stored in any manner," our first exception, "but does not include software or any mechanism that produces records."

If we look at further information, at further details in the Act that was passed last year – and again it reminds me of the education Act, where we are now on our third set of amendments, and I remember certain Members of the Legislative Assembly on the government side getting up and saying that that Bill was the best Bill that had ever been presented in this Legislative Assembly. Do you remember that, hon. members? Remember the health care Act? Wasn't that the best piece of legislation that we'd ever passed in this Assembly? How many amendments have we had to date?

THE ACTING CHAIRMAN: Hon. member. [interjection] Order please. [interjection] Order please. We are debating amendment A5, and I would really appreciate it if you could stick to that, please.

MS LEIBOVICI: As I was saying, now we have the Freedom of Information and Protection of Privacy Act, passed last year, and what do we have in front of us? Amendments. Amendments from a confused government. Otherwise, we wouldn't have those amendments; would we, hon. member? We would not have them in front of us. So we're trying to just unconfuse, if I can use that word, the government side and put you back on the right track. That is what the hon. member . . .

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

SOME HON. MEMBERS: Citation.

**Point of Order
Relevance**

THE ACTING CHAIRMAN: What was your citation?

MR. FISCHER: Relevance, Mr. Chairman. Please get her back on the amendment.

THE ACTING CHAIRMAN: While the hon. minister did not cite an exact citation, I would agree that we need to get back on track. I took the hon. Member for Calgary-Buffalo very seriously when he said that he wanted to work very diligently to try and work through these amendments and try and pass this legislation, and I think that we're sort of diverting from that right now. If you weren't here, then perhaps you could ask the hon. Member for Calgary-Buffalo about the commitment that he made with respect to that, and I would hope that other hon. members would respect that commitment as well.

Thank you.

Debate Continued

MS LEIBOVICI: Well, thank you for putting me on the right track, hon. Chairman.

As I was saying, with regards to the amendment that the hon. Member for Calgary-Buffalo has put forward in section 5(a)(iv), clauses (j), (k), and (l), the response that I've heard from the government members is that in effect the particular clauses that are in the amendments, in terms of the records that are required to be exempted from the Bill, are there because of the fact that the government feels there may be an intrusion, that there may be a release of confidential information.

My point is quite simple. If you were to take the time to look through the Bill that was passed last session, the close-to-perfect Bill, I'm sure the government would like to think it was, there are many, many areas within this particular Bill that provide the exemptions that the hon. members are worried about. There's even a section, section 15 of the Bill, that talks about exceptions to disclosure, talks about personal information in terms of disclosure of personal information, talks about the head of . . .

THE ACTING CHAIRMAN: Hon. member, excuse me. I hesitate to interrupt you, but now you're wandering off into other sections. We're dealing with this particular section, amendment A5 to Bill 19. So please try and stick to that.

MS LEIBOVICI: I am. I am sticking to the point because in order to talk to the particular amendment, in order to talk to the amendment that was put forward by the Minister of Public Works, Supply and Services, one needs to look at the rationale for the amendment. That rationale can be found in Bill 19, can be found in the exact sections that I have put forward, that talk about exceptions to disclosure. In the fact that we have those exemptions in the particular Bill, we do not need the exemptions that are put forward in the amendments. It's quite simple, and that is the reason that the hon. Member for Calgary-Buffalo has put forward the amendment that says that sections (j), (k), and (l) should be deleted. There can be nothing more relevant than looking at what the particular Bill has with regards to these areas and relating it to the amendment that was put forward in Bill 19 vis-à-vis the amendment that the Member for Calgary-Buffalo has put forward. That is the reason that I keep referring to the sections within the Freedom of Information and Protection of Privacy Act.

With those comments I close my debate.

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

10:40

MR. CHADI: Thank you, Mr. Chairman. In listening to the debate on this amendment, I feel of course compelled to rise and speak to it. I want to by example relate to members of this Assembly just in fact what it is that we're after with this amendment and what the amended version in Bill 19 does to the Freedom of Information and Protection of Privacy Act.

As far as I'm concerned, Mr. Chairman, the shareholders of this corporation called Alberta are who elected us to this Legislative Assembly. We are now elected. We act as officers or directors of this corporation, more or less. Let's use that as an example, because it's in fact what we're doing. We're guiding this corporation. We're guiding this province on behalf of the people that are shareholders in it: the people that own property, the people that pay taxes, the people that own the natural resources of this province, the people that work here on a daily basis, the people that live here, drink the water, and share in the air that we breathe.

Mr. Chairman, we have an obligation and a duty to those individual shareholders, and that duty is to be as open and as accountable as they would want us to be. There isn't a single person that ran in the last election that didn't run on fiscal responsibility and on the premise that we would be open and accountable.

What Bill 19 does with respect to that accountability is take away the opportunity for the shareholders to be able to find out just how a Member of the Legislative Assembly did in fact spend the money that was allotted to that individual member. It takes away the right of those shareholders to find out how the chair of a provincial agency spent the funding that was allotted to that particular agency. Officers or special officers or whatever – senior officers is the term that is used in the Bill. In fact, they would be exempt again from finding out how the funding was spent with respect to the different functions that they perform. I think it is wrong that the shareholders of any corporation would not be allowed access to certain information, particularly information that directly affects them, and in this case it is no different.

I for one stand as an MLA that would be for open and accountable government, open and accountable in terms of my constituency office. It's there. Any record that any individual in Alberta would want to see is there just for the asking. I think to exempt it from the freedom of information and privacy Act would be wrong. I would like to see it in there. I would encourage all members to support this. I would hope to think that we could go back to our constituents, not only my constituency, Mr. Chairman – I'd like to think that I could be speaking in Calgary or Medicine Hat or Lethbridge or Vermilion and say to any shareholder of this province that in fact they could access the information on any Member of the Legislative Assembly and any member that they elected to this Legislature. They belong to this corporation, and they have that entitlement. I would hope to think that there would be members of this Assembly that would agree with that.

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

HON. MEMBERS: Question.

THE ACTING CHAIRMAN: The question has been called. I would remind hon. members that we are voting on amendment A5 as proposed by the hon. Member for Calgary-Buffalo. All those in favour of the amendment, please say aye.

SOME HON. MEMBERS: Aye.

THE ACTING CHAIRMAN: Those opposed, please say no.

SOME HON. MEMBERS: No.

THE ACTING CHAIRMAN: Defeated.

[Several members rose calling for a division. The division bell was rung at 10:43 p.m.]

[Three minutes having elapsed, the Assembly divided]

For the motion:

Abdurahman	Leibovici	Sekulic
Beniuk	Mitchell	Soetaert
Bracko	Nicol	Van Binsbergen
Chadi	Percy	Vasseur
Dickson	Sapers	

Against the motion:

Black	Fritz	McFarland
Brassard	Haley	Mirosh
Burgener	Havelock	Paszkowski
Calahasen	Hierath	Renner
Clegg	Hlady	Severtson
Dinning	Jacques	Stelmach
Doerksen	Jonson	Tannas
Dunford	Langevin	Taylor, L.
Fischer	Magnus	Trynchy
Forsyth	Mar	West
Friedel	McClellan	Woloshyn

Totals:	For - 14	Against - 33
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[Motion on amendment A5 lost]

10:50

THE ACTING CHAIRMAN: The hon. Member for Calgary-Buffalo has graciously precirculated an amendment which has been labeled A6.

The hon. Member for Calgary-Buffalo.

MR. DICKSON: We'll keep trying, Mr. Chairman. We'll keep trying. Now, this is an amendment that I expect is going to receive much more enthusiastic support, particularly from the Member for Calgary-Shaw, because this amendment goes back and respects and reflects the position that the Member for Calgary-Shaw fought so aggressively for when we were on the all-party panel.

You know, the all-party panel looked at what sort of time limits should apply when you request information. I remember the Member for Calgary-Shaw saying that we have to look at this from the perspective of an Albertan who applies for information, not from the perspective of the department, the minister, or the deputy minister but from the perspective of the Albertan that wants information. As a consequence of the diligence of the Member for Calgary-Shaw - and I give him full credit - we carried forward in the report. I'm happy to see that many members here have the all-party panel report from November 1993, and it says:

Within 15 days after a request is received, the head of a public body must have transferred the request to another public body, if

necessary. Transfer time should be included within the 30 day response requirement.

Now, that was a provision that we all accepted because we were persuaded by the Member for Calgary-Shaw. I'm hopeful there are some other members from the all-party panel that can verify my memory. And so we put that in the report. It was carried forward into the freedom of information law, and I was proud to see that in there because we did something almost no other province had done in terms of talking about time delays, recognizing that information delayed is too often information denied and saying what really counts here is the Albertan who requests information, not the problems that the minister is going to have, and it's up to the minister to jolly well get his department in order to develop his information management systems so when the request comes in, it can be dealt with.

You know, in the Department of Energy they've got a model there. That's probably the best organized department in this government. I've talked to the people in that department. They're going to have no problem getting information within 15 days, never mind 30 days. So what we've got is a problem, and as I said initially, I'm going to ask the minister specifically, concisely to tell us, make the case why that recommendation spearheaded by your colleague from Calgary-Shaw, incorporated into the freedom of information law just one short year ago, is now going to be chucked aside and we're going to double the time. Albertans want to know why that is, Mr. Minister. Will you share that with us, please?

MR. FISCHER: Yes, I'd be very happy to, and I'm sure it will clarify everything so that nobody else will even want to get up and speak.

The 30 days is consistent right across the country. All of the other provinces have the 30 days. The reason this is in here is because if somebody wanted to deliberately go to the wrong department, then they would try to get their information in the 15 days. Now, I know that people say, "Well, 15 days is enough," but they have to take information out of the whole record department. They have to have people analyze them. In some cases they have to contact people. They have to either write letters or get ahold of them some way or another, and it isn't always possible to do that in that time frame. I know there are some exemptions in there that allow for special occasions, but it was never the intent of the committee or never the intent to have it in 15 days. So that is the only reason that this is in here. I would urge all of the members to think about that a little bit, and if your argument is not having 30 days and having it in 15 days, then yes, you'll be going right against the committee's decision on that.

I would like to say one other thing. The department people are very, very conscientious people that do their best to get the information out, and they might not take 30 days. They might take a lot less. They are wanting to deal with an issue and get it off their plate as fast as they can. I know they will do that. Yes, people can say, "Well, there'll be the odd case here and there that doesn't." But most people are very conscientious about that. We have good people working in there, and I think we can be comfortable with the 30 days or less.

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

MR. SEKULIC: Thank you, Mr. Chairman, and quite to the contrary from the minister who said after he answers the questions

that no one would be standing to ask for clarification, in fact his answer raises more questions than it does provide answers.

The first thing is that I must agree with the minister on one of his points. I do believe that the people in his department work very hard and are committed to their employment and in fact will try to deliver information in the least possible time. However, I just can't imagine that any Albertan or, for that matter, the press gallery – as you see, it's loaded tonight – or any of these people who are interested in accessing information would deliberately go to the wrong department. I think that when we're debating laws, we must look at the majority, and I believe that the majority will deliberately go to the right department seeking information. If there are a few that don't go, then this is far too broad, and it affects those people that deliberately go to the right department. So I think this is far too sweeping.

To confirm the Member for Calgary-Buffalo, his memory is accurate. The motivation for this time frame was initiated by the Member for Calgary-Shaw when we traveled on the Premier's freedom of information panel, so I'm quite puzzled now to see the government going backwards on this one. I take a look at the government clawing back on the programs, the services that it delivers, in fact, cutting a significant number of positions in government, and it must not just talk more, but it has to tell more. I think that along with that, it has to tell it as quickly as possible. So the minister is quite correct in saying that his staff will do their very best and, in most cases, deliver that information in that 15-day time frame. I would expect that 15-day time frame is an appropriate standard and that if they go beyond that 15-day time frame, perhaps those are the exceptions and it warrants some explanation.

I don't think lengthening the time frame does much in the direction the government has been going. If we are going towards performance and outcome measurement, surely the shorter the time frame, the higher the performance and outcome expectation. I see this as one of those areas that government can surely live up to: more efficient, more effective, a higher performance, and better outcome expectation.

So I would hope that in the spirit of providing Albertans with information in a timely manner – as the Member for Calgary-Buffalo said, often if information is delayed, access delayed is access denied.

[Mr. Tannas in the Chair]

I truly do believe that. It's not, as the government has been doing, talking more. The government has to start telling more. There is a significant difference, and I think we have to get beyond that. I think this is one of those amendments that does address that. With those few comments, Mr. Chairman, I'll pass the floor to a colleague.

11:00

THE CHAIRMAN: Okay. The question's been called. [interjections] Is that not what he said? [interjection] Oh, pass to a colleague. Sorry. I thought you said you'd call the vote. Just anxious.

The hon. Minister of Energy.

MRS. BLACK: Mr. Chairman, just very briefly I'd refer the hon. members to the original Bill, section 13. This amendment is in keeping section 14, which is section 7 under Bill 19, in line with section 13. Section 13 refers to up to 30 days to provide the response and information, and this is just bringing section 14 in

line with section 13. I believe that you're quite right. Most people would like to do it as quickly as possible, but sometimes information has to go between departments, between groups to gather that information. So it's just a matter of having consistency within the two sections of the Bill; that's all.

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

MR. SAPERS: Thanks, Mr. Chairman. I think the Minister of Public Works, Supply and Services and I live in two very different Albertas. The Alberta that I live in is populated with taxpayers and constituents who want to have access and demand to have access and rightful access to government information and will properly utilize their right of access, and the Alberta that the minister lives in is populated with pesky Albertans who will try to thwart government programs by purposely going to wrong departments and creating work: two very different realities. Certainly the minister's Alberta does not reflect at all the Alberta that I traveled when I spoke to Albertans and Albertans spoke to me about their freedom of information concerns and demands. The all-party panel worked from the premise that the government needs to be trusted and should work towards building that trust with Albertans but that we never question the trustworthiness of Albertans. I'm dismayed to hear that the amendments in this Bill are designed around the notion that Albertans perhaps can't be trusted. I reject that notion, and for that reason and no other I would support this amendment.

It seems to be that transfer time is well handled, that one department can hand off an information request to another department. Each department would have 15 days, the total being 30 days. I can't imagine a reasonable delay could exceed beyond that. An Albertan who is waiting for information I think should deserve nothing less. In fact, that was the basis of the argument that the Member for Calgary-Shaw put forward when we worked together to come to that unanimous all-party report, that led to the creation of a good Bill. That Member for Calgary-Shaw was very, very articulate in his argument saying that there should not be unreasonable delay and we should try to structure within the legislation the time that it would take for a department to respond to a legitimate information request. I remember the member making that. In fact, I remember the Member for Calgary-Shaw convincing the Member for Rocky Mountain House, who was also on that committee, that this was a very, very important section to include in any Bill regarding freedom of information, that it was fundamental.

So I would hope that all members of the Assembly will reflect on the hard work by that committee, will reflect on the articulate arguments of the Member for Calgary-Shaw, will take the opportunity to maintain the integrity of the Bill as it was contemplated by that all-party committee and accept this amendment so that Albertans will not be faced with unreasonable delays in the meeting of their legitimate information requests.

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

MR. CHADI: Thank you, Mr. Chairman. [Mr. Havelock rose] I'll take my seat if the Member for Calgary-Shaw can explain . . .

MR. HAVELOCK: Oh, I'm sorry. You probably have to recognize me; right?

THE CHAIRMAN: Is there no one else?

The hon. Member for Calgary-Shaw.

MR. HAVELOCK: Thank you, Mr. Chairman. I do appreciate the hon. Member for Edmonton-Roper letting me address this. I'll be very brief. It is certainly true that during the freedom of information deliberations I strongly supported the time frame for responding which was in the legislation. Subsequent discussions with department officials indicated, quite frankly, that if you want to undermine the enthusiasm which the department and the various departments have for implementing this legislation, then give them a time frame which they don't feel they can operate under. There can be nothing more frustrating for them than feeling that they're under the gun. They're not able to respond appropriately. They don't have the resources. Quite frankly, it's that argument from the department which convinced me that the amendment was necessary.

So while I originally supported the intent of the Bill as passed in the House, I think this is one of the more critical amendments that we're looking at. It goes to the mechanics of the Bill. It goes, again, to ensuring that we have people in government supporting this Bill and supporting the dissemination of information. So for that reason I would fully support the amendment that's been put forward by the minister.

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

MR. CHADI: Thank you, Mr. Chairman. I want to respond both to the Minister of Energy and the Member for Calgary-Shaw. The Minister of Energy earlier commented that the reason we're bringing this amendment forward in Bill 19 is to bring in line section 14 with section 13 of the Freedom of Information and Protection of Privacy Act. Section 13 is quite clear. It states that the head of a public body may extend the time for responding to a request for up to 30 days or, with the Commissioner's permission, for a longer period [of time].

Then we look at section 14 and we talk about transferring a request. If you take a situation where you must transfer a request, it says that

within 15 days after a request for access to a record is received by a public body, the head of the public body may transfer the request and, if necessary, the record to another public body.

It further states – and the Minister of Energy will see this – that if the request is not possible within 15 days, it can be "extended under section 13." It can be extended in any event. So I don't know what the reason for this amendment is in Bill 19. It makes no sense at all. Somebody's got to give me a definitive reason of why this is now being extended to 30 days when quite clearly in section 14 it says that you can get an extension any time you want. It doesn't make sense at all, Madam Minister.

Thank you.

[Motion on amendment A6 lost]

THE CHAIRMAN: Are you ready for the question?

The hon. Member for Calgary-Buffalo.

MR. DICKSON: Mr. Chairman, moving on to the next amendment, perhaps the Chair can confirm that that's been circulated. Just for the benefit of the government members, it was given to the Table in advance for purposes of circulation, so I won't accept responsibility for this one.

This amendment is one that we've talked about in the House. It's been raised in question period. I'll hold off, unless government members are happy to have me continue. Mr. Chairman, I want to formally move that Bill 19 be amended by deleting section

8 and substituting that section 19 be amended by adding the following after subsection (5):

19(5.1) Notwithstanding section 19(5), the head of a public body may refuse to disclose the reasons for a decision not to prosecute if disclosing these reasons could reasonably be expected to compromise or otherwise impair the Crown's case in a future or related prosecution.

19(5.2) When a public body chooses to withhold the reasons for a decision not to prosecute pursuant to section 19(5.1), the head of that public body must not refuse to disclose the reasons to the parties specified in section 19(5) at the termination of all related prosecutions.

This is a specific response to advice we received from the Minister of Justice. I had asked the question initially on Bill 19: why is it that we move back on one of the very positive elements in the original freedom of information law?

11:10

Under the original law if you were a victim of a crime, a violent crime or any other kind of crime, if you were a family member of a crime victim, in some cases the public, you would be entitled to an explanation. If your daughter had been a victim of a sexual assault and after three weeks of the police investigating the case you suddenly phone up and say, "What's happened to this case?" and they say, "Oh, we've decided not to prosecute," before freedom of information came into place you had no right to an explanation.

Under the law we all passed last spring, we did something very positive. Like B.C. we said, "If you're a crime victim, if you're a family of a crime victim, you're entitled to an explanation," not a copy of the police report, not a copy of the police interview statements but an explanation, a reason. It doesn't say that it's got to be a 20-page explanation. You just have to get a reason, the most basic kind of entitlement at a time when victims of crime are saying to every member in this Assembly: "We have rights too. We're entitled to explanations. We expect to be treated with the same dignity that every accused person is treated with under a system."

The Minister of Justice, when I raised this, said: the problem is that sometimes you have three co-accused, and if you have to give a reason, you may compromise your case against the co-accused. So what we've done is listened to what the Minister of Justice said, we've integrated that into this amendment, we've responded, and so we say: if you have multiple accused – this is just to paraphrase the amendment – and you don't want to give an explanation to a crime victim, you're entitled to say, "We can't do that now; we're in the middle of an investigation," and when you have finally finished dealing with all of the potentially accused, then you give a reason. So it respects and responds to the legitimate concern raised by the Minister of Justice. I've talked to police. I've talked to Crown prosecutors. This is not a problem.

Mr. Chairman, the Member for Calgary-Bow, certainly I think one of the hardest working members of the Assembly, is bringing in Bill 214, the Victims of Violence Act. You know what she said when she introduced it?

Mr. Speaker, this Bill, 214, will ensure among other things that victims are treated with respect and dignity and also have access to and are informed of the services available to them.

Now, the Bill doesn't say very much. It talks about things that I would call common courtesy, that I'd expect all crime victims should be entitled to. But here's a member of the Conservative government caucus who's felt it necessary to say: we have to have a Bill to say that victims are treated with dignity. Now, how is that member going to justify her Bill, particularly if government

members are prepared to support it, when at the same time, if in fact they should torpedo this amendment, the two can't be reconciled?

Mr. Chairman, we had another motion from the Member for Calgary-Bow on May 7, 1991, and this is the motion she introduced:

Be it resolved that the Legislative Assembly urge the government to increase funding for the basic emergency services provided by women's shelters to 100 percent, as requested by the Alberta Council of Women's Shelters, and adequately fund community-based treatment programs for offenders and all victims, including children.

If you go on to read what the Member for Calgary-Bow said, she talked about the rights of crime victims. She said, "Motion 211 is . . . narrow in its focus." It goes on to say – well, I can simply paraphrase. In May of 1991 the Member for Calgary-Bow was talking about more respect for victims and a greater concern on the part of the provincial government in terms of letting victims in and letting them know what's going on. The response I got from the minister – and I've had numerous discussions. I've raised it in question period. We heard the objections of the Minister of Justice. We've responded to that. We've brought in an amendment that I think satisfies the concerns of the Justice department. Yet the minister has told me that he's unable to move on this particular amendment because he thinks that somehow it's going to compromise police investigations.

I say again that what the amendment says is not that you have to turn over the names of potential accused. All you have to have is an explanation. The explanation may be a one-liner. It may be as simple as saying that the only person that had been identified as being a potential suspect in fact had an alibi that checked out or that we have no adequate evidence of identification or that an exhaustive investigation has found no real evidence to support a prosecution.

DR. WEST: That would mean a lot to the victim.

MR. DICKSON: You know, there are some members like the minister of transportation, who's a great one for getting up on a soapbox and talking about how he wants to see respect for victims and getting tough on crime. Here's a chance for him to put his vote where he speaks. This is a chance for the member to demonstrate by action instead of simply talking about . . .

DR. WEST: The mandate for victims is justice. It's a placebo and you know that.

THE CHAIRMAN: Order, hon. minister.

MR. DICKSON: What we have here is not enough for victims. This is not going to satisfy the victims of violent crime. But do you know something, Mr. Chairman? This may be the first acknowledgement by this Legislature in a concrete, positive way that victims have rights and that we start right here to listen to some of those concerns.

DR. WEST: Bleeding-heart liberals have always been the danger to justice.

THE CHAIRMAN: Hon. minister, I know that you have some strongly felt opinions. If you just give us a moment, you can speak to them.

Calgary-Buffalo in continuance.

MR. DICKSON: Mr. Chairman, I could go on because I feel very strongly about this amendment, but I've had a chance to talk to this before at second reading. I've had a chance to ask questions of the minister. If I haven't been able to persuade members in the government to this point that this is an amendment whose time has come, there may be little else I can say. Hopefully there are some other members in my caucus that can be more persuasive. I can tell every member that victims' groups that I've heard from already are using this. This is one of those things where they have a chance to see which MLAs simply talk a good story about respect for victims and which MLAs are prepared to actually do something concrete to start respecting the rights of victims. Here's a chance to start right here.

Thank you.

THE CHAIRMAN: The hon. Member for Calgary-Shaw. [some applause]

MR. HAVELOCK: Oh, thank you, hon. members. Thank you, Mr. Chairman. I will be very brief. [some applause] Yes, thank you.

What caused me to stand and respond to the hon. Member for Calgary-Buffalo is the assertion that he actually met with the minister and listened to what the minister had to say. Unfortunately, he didn't listen, because he insists on continuing to bring this particular amendment before the House.

I have two very brief points I'd like to make. One, throughout the freedom of information process the hon. member fought very hard, and I think rightly so, to ensure that the freedom of information commissioner has very extensive powers to investigate any matter which a complainant might wish to bring before him or her. In that regard, a decision by a public body to refuse to disclose this information is appealable to the commissioner. Now, we've established the commissioner. We're going to be having a commissioner hopefully in place shortly after this is passed. Why not let that commissioner do his job and investigate these matters?

11:20

Secondly, Mr. Chairman, he has not addressed the situation which again was raised by certain members of Her Majesty's government regarding an innocent party having information disclosed as to, for example, an alibi which might be embarrassing to that particular individual. While the hon. Member for Calgary-Buffalo is very intent on having people access information, he should also be just as intent on protecting the privacy of individuals. That's also what the Freedom of Information and Protection of Privacy Act is all about.

So I'd like to remind the hon. Member for Calgary-Buffalo that there are two sides to this issue, and had he listened as he suggested that he had done when he met with the minister, we wouldn't be sitting here at 11:20 on Tuesday evening debating this again.

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

MRS. ABDURAHMAN: Yes, Mr. Chairman. I find it quite ironic that the Member for Calgary-Shaw is pointing to the time on the clock when we're actually debating an amendment to Bill 19 that should indeed be supported by this House. To suggest that somehow an Albertan's rights are going to be infringed when a law enforcement body clearly puts forward to the party representing the victim that indeed the prosecution has not gone forward

because there wasn't sufficient evidence to warrant it to proceed because indeed the only suspect had an alibi that could be substantiated, I think that within the Freedom of Information and Protection of Privacy Act that individual who was under suspicion or under investigation is protected by the Bill. To suggest that somehow the law enforcement people are going to go out and name the person who was being investigated and share all the information does a disservice to this Legislature.

I think also that for a government not to support this amendment once again further victimizes the victims of our criminal justice system. We have seen two committees travel this province. One of the things that kept coming back from Albertans was that the criminal far too often is the one that's protected and that indeed the victim continues to be victimized. Now, Mr. Chairman, the Freedom of Information and Protection of Privacy Act certainly acknowledges the right of the victim in 19(5):

After a police investigation is completed, the head of a public body must not refuse to disclose under this section the reasons for a decision not to prosecute.

I think that is a fair and just comment, part of this legislation. For this government to come in and amend it to take away that right from victims I find so contradictory to what I hear from the members of this government, that we've got to deal with the criminal element in our society and that we've got to move this criminal justice system around to make it fairer for the victims who continue to be victimized.

Mr. Chairman, I find it so disappointing that members, whether it be Calgary-Shaw or the other government members who participated on this panel, will come in to this Legislature and not support meaningful amendments. I was optimistic that it was an all-party committee and that we were really beginning to see democracy working in a positive way. Instead we're back to the old-style politics when we see a meaningful amendment coming to this Bill 19 that is amending good legislation. I think it's sad; it's tragic.

You know, we stand in this House and see poor legislation being brought forward, and within months we're seeing amendments. The Freedom of Information and Protection of Privacy Act was supported in this House by the Official Opposition, and then a few months later here we are back with amendments that do a disservice to victims. I think every Albertan should be asking: "What's this government up to? Why will they not live by the original Freedom of Information and Protection of Privacy Act?" I can remember debating this section of Bill 19 on which we're now putting forward this amendment and saying to the Member for Little Bow that I honestly never believed that I'd be accusing the Member for Little Bow in this House of being a bleeding heart. But, quite frankly, all I've heard from this government with regards to my colleague's amendment from Calgary-*Buffalo* is nothing but bleeding hearts.

I see the minister of transportation communicating physically to me – I wouldn't like to put it in terms of being a bunch of crock, but quite frankly, I'm absolutely amazed that the minister of transportation wouldn't be looking after the interests of victims. I've heard all too often that we're all bleeding hearts.

MR. DINNING: Every time you open your mouth you victimize people.

MRS. ABDURAHMAN: The only person that I victimize is the Provincial Treasurer, Mr. Chairman. For some unknown reason I somehow get under his skin, get his goat. He keeps reacting to me. [interjections]

THE CHAIRMAN: Order. [interjections] Order. We are on A7, *Clover Bar-Fort Saskatchewan*.

MRS. ABDURAHMAN: Mr. Chairman, I was rudely interrupted by the Provincial Treasurer, who continually likes to mimic me.

Getting back to the amendment, this is a substantial amendment. It's an amendment that should be carried unanimously by this House. Truly, Albertans want to be assured that victims' rights are protected and that victims or the parties who wish to question on behalf of them have the right to know why a prosecution has not moved forward.

Thank you, Mr. Chairman.

THE CHAIRMAN: The hon. leader of the Official Opposition.

MR. DINNING: Oh, Grant's up.

MR. MITCHELL: That voice of the Treasurer, Mr. Chairman, just gets on our nerves over here. It's like nails on a blackboard. On and on and on. The only time it doesn't get on our nerves is when he's in trouble and drops it really low and he gets a little pout. [interjections]

THE CHAIRMAN: Hon. members, order. Just a word of caution. I wonder if the hon. member could stick to A7.

MR. MITCHELL: I'm trying to get to it, Mr. Chairman, but they're provoking me.

MR. DINNING: Your voice is starting to sound like Muriel's.

MR. MITCHELL: My father wore a kilt for 32 years. You go easy. My father wore a kilt every day; well, practically every day.

I want to get on with this debate, and I really want to start where the minister of transportation left off. It was quite a display, Mr. Chairman. We saw the minister of transportation here huffing and puffing and slamming his chair against his desk after stating that somehow our caucus and the Member for Calgary-*Buffalo* were bleeding hearts because he wanted to do something that would reflect victims' rights in this judicial . . .

MR. HERARD: Point of order.

11:30

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

**Point of Order
Relevance**

MR. HERARD: Mr. Chairman, . . .

SOME HON. MEMBERS: Citation.

AN HON. MEMBER: It's 23(j).

MR. HERARD: Yeah, 23(j), (k). Things were going along fairly well I thought for a while, but there doesn't seem to be a lot of relevance right now, Mr. Chairman, and I wonder if we could get on with it.

THE CHAIRMAN: Well, I think the point is well taken. I had asked the hon. member to please relate his comments to A7 rather than giving us a reflective view of what members did and didn't

do and whether the minister of transport did this or that. I wonder if we could stick to the . . .

MR. MITCHELL: Well, it's important, Mr. Chairman, and I will. It's important, though, to see.

THE CHAIRMAN: It's relevant?

MR. MITCHELL: It reflects the response and the attitude of a government towards something that is eminently reasonable.

Debate Continued

MR. MITCHELL: This is a government that speaks for itself, this particular amendment. This is a government that will pay lip service to victims' rights, yet when you begin to assess what they've ever done to support victims' rights, they have done precious little, Mr. Chairman. We talk about victims' rights with respect to counseling, victims who have been abused or have been sexually assaulted or have been offended in some other way, but this government reduces counseling services. We talk about victims' rights, the need for victims, the opportunity for victims to have a say in the court process, for example when it comes to sentencing. This government still hasn't undertaken to allow victims a right to participate in some official way in court proceedings that have affected them, the person who has a crime perpetrated on them. We talk about victims of violence in the home, yet we have a government that will not take enlightened steps to support victims of violence in the home. To this day the perpetrator of the violence gets to stay in the home and the victim often has to leave the home.

Mr. Chairman, this is a government that on the one hand says they support victims' rights and on the other hand has this topsy-turvy view. When we raise an eminently reasonable amendment that will support victims' rights in a very, very reasonable way, the transportation minister slams his chair against his desk and storms out of here, raising us to hope that at least he has checked his guns at the door.

Mr. Chairman, if that wasn't startling enough to me, I listened to the Member for Calgary-Shaw, the one time I've listened to him this session. He uses some pretty stretched, pretty thin arguments to argue against the provision that there should be an explanation to victims for why it is that a prosecution isn't proceeded with against somebody who has perpetrated a crime. He says, for example, that an alibi may be embarrassing to somebody. Well, that may be right, but you know we have faith in the Justice department that they could explain to a victim why a prosecution was dropped and do that in a way that didn't hurt somebody else's rights or embarrass them in any particular way. It's one of the weakest arguments that I could imagine he could make against this particular provision.

Mr. Chairman, really this brings us to another point about the Justice minister. What he is saying is that he doesn't want his Justice department to have to explain to victims of a crime that the Justice department will not proceed with a prosecution because they have plea bargained or they have got this person to turn somebody else in or they have turned this particular criminal into a witness in some other case and have allowed that particular criminal perhaps to go free. That, I believe, is the case. We see the Minister of Justice often moving and softening in areas of this nature.

Mr. Chairman, this is a very, very small step to support victims' rights. It is a simple offering of a government to people

who are the taxpayers, to people who are the electors of this government that would say, "Yes, this is why we can't proceed to prosecute somebody who you believe has perpetrated a crime on you." It doesn't seem to me to be very much to ask. In fact, it doesn't seem to me to be much to ask at all. It is very, very difficult for us to understand why this government, why the minister of transportation couldn't simply say yes to this amendment.

In fact, Mr. Chairman, they get more and more belligerent the closer that we get to something that truly bothers them. They're bothered by this. You can see it. The whips are probably on. They understand that here's something that they could do, and for whatever reason they simply won't do it. Calgary-Shaw is particularly bridled by this because he's lost control of the freedom of information legislation and he's really become second fiddle, maybe third fiddle. He's been overruled on things that he in fact advocated early on in the process, and much of what he worked on with the all-party committee to achieve he's lost. I don't blame him for being frustrated. I guess I can't really blame the transportation minister for being frustrated. Something must really be bothering him tonight.

Thank you.

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

MR. SAPERS: Thank you very much, Mr. Chairman. When I read Bill 19 and I saw the exclusion for victims' information, I could not believe my eyes. What an insult to the people of this province and what an insult to the whole victims' rights movement in this country. I could not believe that this government would not want to pay the least little bit of respect to those Albertans who have a legitimate need to find out about the disposition of a criminal matter.

Anybody who has ever spent any time dealing in the criminal justice system will recognize how victims feel doubly victimized: first by the offender and then second by the system that's supposed to be there to serve them. Victims have not had their needs met by the system. Victims have not been recognized for the needs that they have. Victims of violent crime often feel lost. They feel abandoned by the criminal justice system, a system that's like speaking a foreign language, a system they often don't understand, and nobody takes the time to explain it to them. By allowing victims access to this information, you're simply providing one helping hand to people who are already vulnerable, people who are already feeling disenfranchised, people who are already feeling quite often and quite frankly beaten.

I cannot think of one valid argument and certainly have not heard one from any member from the government side why Bill 19 should not be amended in the way it's proposed by Calgary-Buffalo. I overheard the Minister of Public Works, Supply and Services trying to explain to the Member for Calgary-Buffalo why they couldn't do this. He was mentioning something about: oh, well what about the innocent; what about when the courts find somebody innocent? This displays that this member doesn't have the slightest idea what happens inside criminal courts in this province. The courts don't find people innocent. [interjection] Mr. Chairman, I'm not sure whether we have to recess or not, but the Treasurer is having some kind of spasm. Oh, he seems to be all right now.

The courts don't in fact find people innocent. That's not the role of the courts at all. This amendment has nothing to do with tarnishing the names or tarnishing the reputations of innocent people. All this amendment would do would be to allow the

family, the family of a victim of violence, to be able to gain access to information about a prosecution that didn't proceed. What would be the harm in releasing that kind of information?

Mr. Chairman, I submit that if this government had any sensitivity at all to the needs of victims and to the rights of victims and to the way that victims feel, often abused by the system already, then this in fact would have been a government amendment or even more to the point we would never have seen such a flawed and faulty piece of legislation such as Bill 19 come forward in any case.

MS HALEY: Question.

11:40

MR. SAPERS: No, Three Hills-Airdrie, I won't sit down and shut up. I will continue defending the opportunity for Albertans to gain free access to information, and I will continue to stand here and argue for the right of victims to be able to access that court information. That may not be important to you, and it may not be important to your constituents, but it's important to me, and it's important to my constituents. [interjections] I now understand, Mr. Chairman, why Calgary-Shaw had some difficulty in the practice of law; he's wondering about the role of courts. I'll explain it to him later. Come to my office and I'll explain a little bit of criminal law procedure to you, Calgary-Shaw. [interjection] Yes, I'm sorry. I've been provoked. I'll direct my comments back through the Chair.

I will conclude my comments by simply encouraging all members to do the right thing: vote for this amendment and vote for freedom of information.

THE CHAIRMAN: The question we have before us, then, is amendment A7 to Bill 19, as proposed by the hon. Member for Calgary-Buffalo. All those in support of amendment A7, please say aye.

SOME HON. MEMBERS: Aye.

THE CHAIRMAN: Those opposed to amendment A7, please say no.

SOME HON. MEMBERS: No.

[Several members rose calling for a division. The division bell was rung at 11:41 p.m.]

[Three minutes having elapsed, the Assembly divided]

For the motion:

Abdurahman	Mitchell	Soetaert
Beniuk	Nicol	Van Binsbergen
Bracko	Percy	Vasseur
Chadi	Sapers	Zwozdesky
Dickson	Sekulic	

Against the motion:

Black	Fritz	McClellan
Brassard	Haley	McFarland
Burgener	Havelock	Mirosh
Calahasen	Herard	Paszkowski
Clegg	Hierath	Renner
Day	Hlady	Severtson
Dinning	Jacques	Stelmach
Doerksen	Jonson	Taylor, L.

Dunford	Langevin	Trynchy
Fischer	Magnus	West
Forsyth	Mar	Woloshyn
Friedel		

Totals: For - 14 Against - 34

[Motion on amendment A7 lost]

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

[Motion carried]

[The Deputy Speaker in the Chair]

THE DEPUTY SPEAKER: The hon. Member for Dunvegan.

MR. CLEGG: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration certain Bills. The Committee reports progress on Bill 19. I wish to table all copies of amendments considered by the Committee of the Whole on this day for the official records of the Assembly.

11:50

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

HON. MEMBERS: Agreed.

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

MR. DAY: Mr. Speaker, the night is young and so are the government members, so I would move and request unanimous consent to waive Standing Order 60, thereby permitting the Assembly, should they so desire, to continue into committee study after midnight.

THE DEPUTY SPEAKER: Does the Assembly agree with the motion by the hon. Government House Leader?

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? [interjections] Order. The Chair has at times difficulty in hearing people and so would say: all those who agree with the motion by the hon. Government House Leader, please say aye.

HON. MEMBERS: Aye.

THE DEPUTY SPEAKER: Those opposed, please say no. Unanimous.

head: **Government Bills and Orders**
head: **Second Reading**
Bill 41
Feeder Associations Guarantee
Amendment Act, 1995

THE DEPUTY SPEAKER: The hon. Minister of Agriculture, Food and Rural Development.

MR. PASZKOWSKI: Thank you, Mr. Speaker. I move second reading of the Feeder Associations Guarantee Amendment Act, 1995.

THE DEPUTY SPEAKER: The hon. Member for Lethbridge-East.

DR. NICOL: Thank you, Mr. Speaker. I think this is a good Bill that really reflects the kinds of changes that the feeder association wants in their support from the government, and it also provides for a lot more flexibility in terms of how the government relates to the feeder associations in terms of their guarantee programs. I'd recommend that all members of this Legislature support this piece of legislation.

[Motion carried; Bill 41 read a second time]

head: **Government Bills and Orders**
head: **Committee of the Whole**
(continued)

[Mr. Tannas in the Chair]

THE CHAIRMAN: I'd call the committee to order.

Bill 41
Feeder Associations Guarantee
Amendment Act, 1995

THE CHAIRMAN: Any comments, questions, amendments?

[The clauses of Bill 41 agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed? Carried.

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

MR. DICKSON: Some members may think the short break to deal with the other Bill wasn't quite long enough.

THE CHAIRMAN: Hon. members, we have a whole bunch of people all over the place standing. If you could make your way to the lounge or to your seat, that would be helpful.
Calgary-Buffalo.

MR. DICKSON: Thanks, Mr. Chairman. I wanted to move the amendment which I believe has now been distributed. The motion is that Bill 19 be amended in section 10(b) by adding the following after subsection (3):

- (4) For the purposes of this Act "parliamentary privilege" shall be defined as the immunity that the law provides for members of the Legislative Assembly which is absolutely necessary in order for these members to do their legislative work and the necessary immunity that the law provides for anyone while taking part in the proceedings of the Assembly

and includes the authority and power of the Assembly to enforce that immunity.

Mr. Chairman, that's the amendment.

We've done something interesting in Alberta. We've done something different; we've attempted to include at least part of the Legislative Assembly. The issue is: who makes the decisions in terms of disclosure of documents? The concern is that the supremacy of the Legislature was at risk with the original Freedom of Information and Protection of Privacy Act, hence this provision in Bill 19. Now, I submit that it's better to bring the Legislative Assembly under the Act than to leave it out, as most of the provinces have. Then the question is: who's going to make the decision?

THE CHAIRMAN: Hon. member, just an interruption to say two things: one, that this amendment is known as A8 and that you have the requisite number of signatures and have tabled same.
Continue.

MR. DICKSON: Thanks. I'll just speak very briefly to it. I want to acknowledge that we've done the right thing in Alberta by including the Legislative Assembly. I've mentioned some of the concerns I had before with what's taken back out. It's positive that the Legislative Assembly is subject to the Act, but what's happened is that by appointing the Speaker as the last word, as the final arbiter of questions in terms of whether documents should be disclosed or not, my sense is that it's not specific enough in terms of what the Speaker's power is in terms of which documents he orders shall be produced or shall not be produced.

What this purports to do is actually give a definition to parliamentary privilege so that it's clear, clearer. I shouldn't say that it's perfectly clear because I still think there's a degree of ambiguity. So I'd suggest that this is necessary to make it clearer to somebody who picks up the Act. The concern again is that Albertans should be able to tell by looking at a piece of legislation what's included and what isn't. They shouldn't have to look at Maingot on parliamentary privilege or some other text or have to get a legal opinion.

So that's the reason for the amendment, and I'd encourage members that we get to a vote on this one without delay.

[Motion on amendment A8 lost]

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

MR. DICKSON: Thanks, Mr. Chairman. Moving on to the next amendment. I think this has been distributed already or is in the process of being distributed. I'd move that Bill 19 be amended in section 12 by deleting clause (b).

Now, the purpose of the amendment is to ensure that assignees or delegated administrative authorities are not granted the same powers as government departments or other public bodies since the assignees are not necessarily accountable to the electorate.

12:00

THE CHAIRMAN: Hon. member, this will be known as A9. However, we do not now have the requisite number of signed copies.

MR. DICKSON: Mr. Chairman, I thought I had already provided those to the Chair. If you don't have that, the page will be on the way with the . . .

THE CHAIRMAN: Okay.

MR. DICKSON: Mr. Chairman, I always appreciate the assistance offered by members opposite in terms of keeping me focused. I'm sure that before we get to the end of this, I'm going to need further assistance.

That's the amendment, and I know there are some other members that are anxious to speak specifically to this, at least on this side of the Chamber.

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

DR. PERCY: Thank you, Mr. Chairman. This amendment I support very strongly. The force of the amendment is to ensure that the signees or delegated administrative authorities do not have the same powers as government departments or other public bodies. The principle here is that they're not directly accountable. We're talking about authority that has been delegated. At least with every member of this House ultimately we're responsible every four or five years. However, with these delegated regulatory organizations, DAOs, or whatever the acronym of the day is, it's accountability once removed. It resides with the particular minister, but even then the relationship is pretty attenuated.

The force of this amendment then is to ensure that there is not the same degree of insulation that's provided ministers in the performance of their duties, for example, because at least if the electorate doesn't like what ministers do, every four or five years they can send a pretty strong message by a little selective removal, pruning. However, with DAOs and the like there is not that same direct accountability, so there should not be the same protection within the force of the freedom of information Act.

So I like this amendment, and I certainly will support this amendment.

[Motion on amendment A9 lost]

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

MR. DICKSON: Thanks very much. Mr. Chairman, we now come to a series of amendments which I think will be of considerable interest to all members. I want to specifically move that Bill 19 be amended by repealing sections 13(b), 14, 15, 17, 19(2). [interjection] I can't quite hear the Member for Calgary-Glenmore. If she'd speak a little louder, I'd be happy to . . .

MRS. MIROSH: We'll let everybody at home know how wonderful you are, so call for the question.

MR. DICKSON: The Member for Calgary-Glenmore I think has probably got something she wants to say to this, and I'm hopeful she'll get up and be able to put it on the record before we finish.

This series of amendments, Mr. Chairman – what we've done is we've consolidated five different sections that we want changed in a single amendment. We're going to speak to them collectively, as one group. We're going to put them to a vote as one group. That should hopefully expedite the process.

The specific recommendation from the all-party panel was that we have a stand-alone Information Commissioner. It's one of the key recommendations from the all-party panel. We had considered, Mr. Chairman, and it had been represented to us that we should look at combining perhaps the office of the Ombudsman with this new office of Information Commissioner.

Chairman's Ruling Decorum

THE CHAIRMAN: Hon. members, we did start earlier this evening reminding people that we wanted to have one member standing and talking at a time. When I called you to order now, we had about seven members standing and talking. Even as I speak, we still have three members who are not recognized standing and talking.

While I'm on the mike, I would also indicate to the committee that this amendment is called A10 and that the requisite number of signatures have been tabled.

Calgary-Buffalo.

Debate Continued

MR. DICKSON: Thank you, Mr. Chairman. What I was referring members to was page 13 in the report from the all-party panel on freedom of information. On page 13 it says, "The Office of the Commissioner should be separate and not combined with other offices." The reason for that was that we had looked at the suggestion that we roll in the Ombudsman and the Information Commissioner, but what we also did, Mr. Chairman, is we recognized that the kind of Bill we were recommending, the kind of model we were recommending for the province of Alberta was one that was based on what exists in the province of Ontario and the province of British Columbia. It's not the model . . .

MR. DOERKSEN: Point of order.

THE DEPUTY CHAIRMAN: The hon. Member for Red Deer-South is rising on a point of order with the citation.

Point of Order Admissibility of Amendment

MR. DOERKSEN: Mr. Chairman, I'm referring to *Beauchesne* 578, which says, "An amendment proposing a direct negative, though it may be covered up by verbiage, is out of order." It looks like these amendments, which are repealing sections, would be a direct negative; would it not? I'd appreciate your ruling on that.

THE CHAIRMAN: Calgary-Buffalo to respond to the point of order, and then we'll comment further on 578.

MR. DICKSON: The short answer, Mr. Chairman, I'd suggest is that this is an amendment Act we're dealing with. It's not an Act with a statement of principles. It's an amendment Act with a random selection of elements and patching up or dealing with different parts of the mother Act, the Freedom of Information and Protection of Privacy Act. So that means you can in fact, in my respectful submission, move to repeal specific elements of it, and it can't be said that that negates the overall Act because the Act itself defies a single theme. I mean, the amendments are all over the place and deal with all kinds of different elements.

I guess the other thing I'd say, Mr. Chairman, is that we anticipated the objection in the sense that we canvassed this with Parliamentary Counsel. We received their advice as well as their signature.

THE CHAIRMAN: The hon. Member for Red Deer-South was dealing not with all of the amendments but with this particular amendment that's before us, A10. Is that so, Red Deer-South? We'll take that as an affirmative. I think if all members refer in

Beauchesne, which you all have handy I'm sure, we have an interpretation under 578, but if you look at *Beauchesne* 694, it says there:

Amendments may be made in every part of a bill, whether in the title, preamble, clauses or schedules; clauses may be omitted; new clauses and schedules may be added.

As the hon. member may or may not be able to see on his copy, this has been approved prior by Parliamentary Counsel.

So with that, the ruling is that the amendment is in order at this time and would invite Calgary-Buffalo to conclude.

12:10 Debate Continued

MR. DICKSON: Thanks, Mr. Chairman. In any event, what I was saying I think before the point of order was that we looked at other models of freedom of information commissioners. There are basically two different models. The one model I'll call the federal model, which has been followed in Saskatchewan and Manitoba. It has a commissioner that doesn't have a lot of power. He doesn't have the power to make binding decisions. He can only recommend, and then the government may do with that what it wishes. There's an appeal to the court. If you don't like what the commissioner does, you can appeal and tie things up in court for a considerable time and at great expense to a citizen that simply wants information.

[Mr. Herard in the Chair]

What we had followed was a model of a commissioner that had much broader powers. What we decided – and it's reflected in this unanimous report from the seven members, four Conservatives and three Liberals, on the panel – was that you'd be doing a disservice to freedom of information by having one person wearing both hats at the same time. So that was the specific recommendation in the report, and I think it should be clear that what's happening in Bill 19 is that we're going down a different road.

Now, some people may say, "Well, this is what they do in Saskatchewan," but if you talk to the people in Saskatchewan, if you talk to the commissioner in Manitoba, who is the Ombudsman – in Saskatchewan it's the Ethics Commissioner – you quickly find that there are plenty of limitations with the way they operate. So what we've got is: if we've used the model from Ontario and B.C. and our Act looks similar to theirs, why wouldn't we use the same model in terms of structure? That's the stand-alone commissioner.

Mr. Chairman, I think there are some specific reasons why it's a full-time job, and I'm going to come back to that. The government has compounded the problem. Not only do they want a part-time commissioner, but they're also prepared to appoint a commissioner without an open competition, something which the Premier had said in December of 1993 was a key element of the government program. The third problem is that the proposal is to take the Ethics Commissioner and have him wear two hats at the same time.

Mr. Chairman, there are at least 13 reasons why it's not going to work and why it's not going to advantage freedom of information in Alberta to have two offices held by the same person at the same time. The first one is: why would we deliberately allow a conflict of interest? When the Conflicts of Interest Act was passed just a couple of years ago, it was seen as important then by members in this Chamber to stipulate in section 31(2) that

the Ethics Commissioner . . .

(b) may not hold any office or engage in any occupation or business that might cause a conflict with the Ethics Commissioner's duties.

Bill 19 eliminates that qualification so that it's not just the Ethics Commissioner. I mean, what you're opening up, then, is other legislative officers being able to embrace a conflict situation. This would allow the Ethics Commissioner to hold another legislative office. Maybe we could roll two or three into the same mix. That's a significant problem. I guess the issue is: how can you allow the key official in this province to rule on potential conflicts of interest of cabinet ministers and MLAs and to himself be in a conflict situation? It makes no sense.

The second problem is that the job is just too big. I've mentioned what's happening in Ontario and British Columbia, and it just does not make sense, Mr. Chairman, to think that a part-time commissioner is going to be able to do this. The Member for Calgary-Shaw referred a moment ago when we were talking about victims being entitled to an explanation, and what the member said was that we have a chance to put this to the commissioner. If a victim can't get an explanation from the police, from the Department of Justice, he should be able to go to the commissioner, appeal it.

Well, I've always thought that what members on the government side wanted was less government, less bureaucracy, streamlining the process. The way you streamline the process is to try and be able to deal with these things at the front end. The way you deal with them at the front end is not to have everything being referred to the commissioner and having the commissioner with a great big backlog, but that seems to be what the government is urging. What that translates to is the fact that we're going to have a half-time commissioner and burgeoning demand in terms of requests and appeals and reviews and that sort of thing for him to do, and he's not going to have the requisite time to be able to do that.

Mr. Chairman, when I say that the job is just too big, it's useful to consider the kinds of things that the Information Commissioner in Alberta can do. He's got semijudicial power. He's got the power to review. He's got responsibility to monitor compliance. In Saskatchewan that doesn't exist, so that's why the Saskatchewan model is not much help. In terms of public awareness, that's a responsibility of the commissioner here in Alberta. Research is a responsibility of the commissioner here. Information policy: the commissioner is expected to play a big role in that. Information issues: that's an important responsibility for the commissioner. Investigating complaints and authorizing mediation initiatives: those are responsibilities of the commissioner. Public education is a responsibility of the commissioner. Publishing advice and direction to government departments are responsibilities of the commissioner. The job clearly is too big.

Now, some members have said at second reading: if this doesn't work, then maybe we can come back and revisit it. There is provision for a three-year review of the freedom of information Act. The experience has been in other places that once one of these Acts is set up and in place, it's extremely difficult and extremely unlikely that amendments are going to be made. I referred earlier to the Open and Shut report from the House of Commons committee, which made a report with dozens and dozens of recommendations in terms of how to make the federal law stronger, and the government hasn't acted. Neither the Conservative government before nor the Liberal government currently has moved on any but a few of the recommendations. So I think that makes it clear that we have to try to get it right the first time around and simply not wait until somewhere down the road a three-year review.

I guess the other point is that all the work to be done is at the front end of the system. We're setting up a brand-new system.

I think what happens is that we want to try and get it right at the beginning, Mr. Chairman, instead of trying to do it patchwork after the fact, down the road.

I mentioned before a breach of promise. You know, we had the appointment policy from the Premier on October 28, 1993, and the Premier said at that time that we want "an unbiased view of candidates' qualifications and a fair and an open process to appoint them." How can we reconcile that commitment from the Premier on October 28, 1993, with a situation where we come along and have an installation? This is no open competition. As I said before, I didn't think we got elected to be rubber stamps, Mr. Chairman. I don't think anybody in the Chamber wants to be a rubber stamp, but that in effect is what we're being asked to do.

MRS. MIROSH: Then sit down. We're not rubber stamps.

MR. DICKSON: Mr. Chairman, I'm still hopeful that the Member for Calgary-Glenmore is going to get engaged in the debate and stand up instead of talking from her chair.

Mr. Chairman, the Ethics Commissioner, I submit, may be less effective as a result of the dual role. The office now focuses very much on providing advice and counsel to MLAs and cabinet ministers. This is provided for in sections 13 and 40 of the Conflicts of Interest Act. Rarely does the Ethics Commissioner confront the elected people. Like the Ombudsman he has no power to order anyone to do anything, and aside from persuasion the only tool to achieve some result in the face of a minister's resistance is a report to the Legislative Assembly under section 27 of the Conflicts of Interest Act.

The Information Commissioner, on the other hand, has the power to order ministers to comply with his decisions. He can register an order so that it has the same force and effect as an order of a judge of the Court of Queen's Bench. There's no appeal from the decision of the Information Commissioner. I suggest it's likely that there's going to be tension between his role as Information Commissioner and cabinet ministers, that will ultimately decrease his effectiveness as a friendly adviser, which is a role we see now played by the Ethics Commissioner.

12:20

The next concern has to do with a different treatment of complainants. There is a very strong complainant protection that exists now under the Freedom of Information and Protection of Privacy Act, section 77. It includes the duty not to disclose the name of the employee, a ban on adverse employment action, as well as a fine of up to \$10,000 for a violation. There's only limited protection for a government employee who contacts the Ethics Commissioner under the Conflicts of Interest Act. Now, I suggest that there could be problems, Mr. Chairman, when an employee brings something to the attention of the Information Commissioner, believing he can rely on section 77 of the FOI Act to protect him from any form of job discipline. If it's determined that the information relates to the Conflicts of Interest Act rather than the freedom of information Act, the employee could lose the full statutory protection and be subject to termination or other discipline, and the only remedy may be a lawsuit. So I think that's a problem.

The sixth problem I see with one person holding both positions is that I suggest Members of the Legislative Assembly may be more reluctant to bring ethical concerns to the Ethics Commissioner for fear that at some point the Information Commissioner might be compelled to disclose that information because of the

public interest override in section 31 of the freedom of information Act.

The seventh reason is what I'd simply call apples and oranges, Mr. Chairman. There's a conflict between the purposes of the freedom of information Act, section 2, which I had mentioned before, and the purposes of the Conflicts of Interest Act. The conflicts Act has no purpose section. When we look at section 40 of the conflicts Act, there is a marginal note there. It talks about general duties of the Ethics Commissioner. Section 40(1) provides that

it is a function of the Ethics Commissioner to promote the understanding by Members of their obligations under this Act by

- (a) personal discussions with Members . . .

And so on.

- (c) continuing contact with party caucuses and advising them as to what programs they might institute.

Now, the focus of disclosure in Alberta happens to be the Ethics Commissioner. It's not the Alberta taxpayer. It's not the Alberta citizen. It's this officer. The Ethics Commissioner is intended to review all kinds of material and information which he has no obligation and is not expected to publish. That's set out in sections 14, 20, and 21 of the conflicts Act. Section 23(3) of the Act allows the commissioner to hold an inquiry in private. Section 41(3) allows a very skeletal report to be presented to the Legislative Assembly without full detail about the presentations received by the commissioner. So two very different roles, and I think it's unfair to ask anyone to try and fulfill both roles at the same time.

The eighth problem is that both officers, I submit, are weakened by the hybrid. If you look at section 4(1)(c) in the freedom of information Act, it contemplates that at some point there's going to be a tension or an issue between the Information Commissioner and the Ethics Commissioner. I know the Minister of Health probably lies awake at night worrying about this potential conflict between the Ethics Commissioner and the Information Commissioner. I know that person's going to appreciate the concern of the Minister of Health. What we've got is that if you look at section 4(1)(c), at some point there's going to be a tension and a contest between these two officers. What do we do in Alberta when one officer holds both positions? It seems to me that you're not going to have both positions fully canvassed. We're going to have a problem with that.

Number nine, commingling of information. This is one that maybe the minister can give us an explanation on, because I think it's a fascinating problem. You've got the Information Commissioner and employees in his office, who take an oath not to disclose information except as provided in the Act. Section 57 imposes secrecy constraints on the commissioner. Sections 24 and 37 impose parallel duties on the Ethics Commissioner as defined in the Conflicts of Interest Act. Now, what happens when the Ethics Commissioner packs up his briefcase at his Ethics Commissioner office and goes down the hall to the Information Commissioner office? He can't by law - somehow there has to be an absolute kind of secrecy, and the information from one office can't be shared with the other office. Well, to me this is one of these things that maybe somebody sitting down writing legislation thinks makes sense, but in the real world there aren't very many people that can compartmentalize their lives like that.

What you also have is staff in each of the two offices who are bound by the same kind of secrecy constraints. Is there anybody here that really thinks that one person can sort of go from one job to the other without having information spill over from one office to the other? That's a problem, I respectfully submit, with the dual positions. The concern is that there'll be some leakage and

that some of that information is going to get out contrary to both provisions.

Number 10, who polices the policeman? How likely is it that the Ethics Commissioner is going to make an order against himself pursuant to section 51(1)(b) or give advice against himself as provided in section 51(1)(i)?

Number 11, conflicting mandates. What happens when evidence of a criminal offence comes to the attention of the Information and Ethics Commissioner? Section 57(5) provides that the Information "Commissioner may disclose" to the Minister of Justice such information. Interestingly, there's no corresponding provision in the Conflicts of Interests Act. When somebody approaches the officer, how do you know what hat he's wearing at one particular time? When a government employee comes up to the commissioner on the street, do they have to ask him, "This afternoon are you the Ethics Commissioner, or are you the Information Commissioner?"

Number 12, information management experience and expertise. What the members on the all-party panel wanted to do – and if anybody from the panel disagrees, I'm hopeful they're going to get up and say so – was try to bring together what is frankly a record-keeping problem in the government of the province of Alberta, Mr. Chairman. We've had a record . . . [Mr. Dickson's speaking time expired]

I'd be happy to come back and finish off the other reasons a little later.

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

MR. FISCHER: Thank you, Mr. Chairman. I listened intently for the last 20 minutes to the member's debate, and I just want to quickly say a couple of things here. I don't know if he or any of his people have gone and discussed at all with our Ethics Commissioner how much time he puts in as an Ethics Commissioner. This government has been wanting and looking since the election in 1993 to save money and be efficient, and this is one place where we can be efficient. We talk about busy. I listened to him say how busy he's going to be. In the B.C. government, which has more information by quite a lot than we do, he's had 22 applications. That's how many he's handled in a year. Now, I almost want to throw up when I listen to all of the garbage over how this is going to be too busy.

We do have to look at things in a commonsense sort of way. He did say and I agree that we do have the opportunity to review at any time. We do also have an automatic three-year review. Our MUSH sector and all of the other sectors that are coming into play don't come in until five years. Yes, maybe at the end of three years we will need to have a full-time commissioner, but I don't see why we should start out having a full-time commissioner. Many of his other reasons for separating the offices and separating your thoughts and so on – and there are 14 or whatever he had there. If you can imagine having 22 or fewer cases plus what he has in the other, surely you can take a day, even, or more than that and separate your thoughts. So I know that I urge all of our members to defeat this amendment just on plain common sense.

12:30

MR. VAN BINSBERGEN: Mr. Chairman, at the risk of causing the minister of public works to do a little ralphing, I'd like to say a few things here that are important to me. To begin with, it was almost two years ago, short of about four days, that all of us, I think, plunged into an election campaign. One of the main

reasons why I was a participant in that campaign was freedom of information. That was an important item. I think it was an important item in the minds of many members on the other side as well. Yet somehow, somewhere something has gotten lost in the translation ever since that time. Perhaps we have to think of Lord Acton, who said that power corrupts. Whatever it is, there is something that has been lost here.

Mr. Chairman, I'm speaking to this amendment, before you pull me back to it, and there are essentially three reasons why I favour this amendment totally. I don't think the minister of public works has dealt with the arguments that the Member for Calgary-Buffalo has made. There are three reasons. The most important one, I think, is that there's got to be a public competition for this job. Now, whether it is a half-time job or a full-time job, that's really irrelevant. There's got to be a public competition as it is supposed to be and as the Premier promised it would be for all these important jobs. Now, unfortunately, like so many other promises that have been made by the Premier and other members of this government, it has gone by the wayside. Gradually we see this fetish for secrecy take over. Instead of an open competition for this job, we see an appointment that is lurking in the bush, and that bothers me.

Second, this is clearly not a half-time job to start with. I think that by calling it a half-time job, the government is in fact saying: this is not an important job. It might turn out into a half-time job. Let's start by making it a full-time job and see what happens.

Finally, the Member for Calgary-Buffalo has referred to the combination of Ethics Commissioner and Information Commissioner and how it might lead to difficulty. I totally agree with him. I think there might be all kinds of potential conflicts there in which he would find himself, and it might severely curtail his ability to rule on those.

Mr. Chairman, I would like to end by saying that the secrecy that we still see in this government in spite of all their verbal commitments to openness, the secrecy that we still see has led us to the point where we still don't have the information that we've asked for in the case of agreements regarding MagCan, Millar Western, and you name it. This is one more item where they want to come back to their original commitment to openness. I urge all members, specifically on the other side, to vote in favour of this amendment.

Thank you.

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

MRS. ABDURAHMAN: Yes. I rise to speak in favour of this amendment. It took us well over a decade and a half, Mr. Chairman, to recognize that development appeal boards were indeed judge and jury. Here we see a government finally recognizing that conflict through Bill 32. I find it somewhat ironic that it's taken so long for the government of Alberta to acknowledge the inappropriateness of any body, composition of a board where indeed they were judge and jury.

What we're seeing here within Bill 19, if this amendment is not supported, is in essence asking the Ethics Commissioner and the commissioner of freedom of information to indeed become judge and jury. You should not be serving two masters, and in essence this is what will happen. You know, when I look at the fact that a personal record or a constituency record of "a member of the Executive Council" and, moving down, "a member of the Legislative Assembly" – when I see the Ethics Commissioner

having to deal with complaints with regard to Members of the Legislative Assembly and then put on another hat when it comes to freedom of information, I say that it is in essence being judge and jury.

I found it fascinating to listen to the Minister of Public Works, Supply and Services telling this Assembly that he's looking for levels of efficiency, and it makes him want to throw up when we're suggesting that there's a conflict of interest. Well, my goodness, Mr. Chairman, if indeed this government is serious about saving money and looking at credible ways of doing that, I would say: let's make a Public Accounts process more effective in what they do. I'd also suggest that you look at the mental health advocate and the limitations of that individual's mandate if you're looking at levels of efficiencies. I think also that the present Ombudsman came forward clearly showing how you could consolidate things that are compatible and would not be in conflict to look at levels of improvement in efficiency. Well, if this minister is so interested in efficiencies and saving taxpayers' dollars, it would be nice if indeed he'd listen to what's being said, but it's only when it's convenient to them that they actually pretend to be serious about saving money.

If we're looking at saving money and he's suggesting that the Ethics Commissioner really doesn't have a full-time job, that's not the Ethics Commissioner's fault. If the Ethics Commissioner is not being utilized to the full extent that this minister thinks he should be, I would say that it's a reflection on the integrity of the members of this Assembly that he's not being used to that extent. Now, if that's the case, what I would suggest is: let's look at the job description of the Ethics Commissioner; let's look at the remuneration. If indeed you're saying that the Ethics Commissioner's job description and remuneration is out of line with the volume of work that that party is doing, well, deal with it, but don't come in after the fact and say: oh, because we're not utilizing this Ethics Commissioner to the full extent and he's being remunerated, let's give him the job of our freedom of information. That's the wrong reason. I would suggest that if the Ethics Commissioner is seen as not being fully utilized, then . . . It's interesting that people can put their feet up on their desks in this Assembly and show total disrespect and get off with it.

Getting back to the amendment, I would suggest that the Ethics Commissioner is doing a commendable job. It's my sense that when you go in and you sit down and you discuss your circumstances with the Ethics Commissioner, he gives you quality time. He makes you feel comfortable that you can pick up the phone and discuss anything with him at any point in time. I haven't seen an Ethics Commissioner that's sitting there twiddling his thumbs. Now, he indeed may want to take on this challenge, but I would say once again that it's no different than when I tried to convince my alderman that it was a conflict of interest for the development appeal board to be judge and jury, and it took us a decade and a half to get this government to see the light and not to allow that to happen.

12:40

MR. STELMACH: Muriel, speak to the Chair.

MRS. ABDURAHMAN: Mr. Chairman, I would suggest that if the Member for Vegreville-Viking is so concerned that I speak to the Chair, it would be more interesting for him to get up on his feet and speak to this worthwhile amendment.

Mr. Chairman, I would say: let's support this amendment. I firmly believe that you should have a full-time commissioner for this very important legislation. It was acknowledged at the time that the legislation was given Royal Assent, and I don't think

anything has changed substantially. If the only reason that the minister can give us is levels of effectiveness and efficiency, I've got lots of suggestions, if he wants to listen, on where he can save money within this government, but this is not the way to do it, Mr. Minister.

Thank you.

MR. DICKSON: I know the Provincial Treasurer, who is pretty good with math, heard me say that I had 13 compelling reasons why we shouldn't combine these two offices, and he's probably saying to himself: I only heard Dickson mention 12. So I wanted to come back and just round things out, Mr. Chairman, give him the 13th compelling reason.

It simply boils down to this: more delay for some applicants. Albertans' right to promptly access information I feel in some cases is going to be prejudiced by having this one person holding both offices, the hybrid office. What we have is that Bill 19 contemplates that the Ethics Commissioner will receive some requests for information under section 7 of the freedom of information Act. Now, in the normal course, if the Ethics Commissioner refused to release the document, then the applicant would be able to take his claim to the Information Commissioner. That of course will not be possible if Bill 19 is passed.

Bill 19, then, sets out an alternative route which has to be followed. That's sections 71 to 76 inclusive in the freedom of information Act. So what has to then happen is that an application must be made to the minister responsible for the freedom of information Act. The minister must appoint a Queen's Bench judge as an adjudicator. The only time requirement is that the minister do this "as soon as practicable." Now, that route obviously is going to take considerably longer than the appeal route which would otherwise have been available if the Ethics Commissioner were separate from the Information Commissioner.

So, Mr. Chairman, just consider the sequence of steps to be followed as a result of Bill 19. If someone wants information from the Ethics Commissioner's office, he applies under section 7 of the freedom of information Act. If the Ethics Commissioner refuses to provide the information, what options does C have? Under the existing Act, C would simply appeal to the FOI commissioner under section 62. The commissioner would be obligated to render a decision within 90 days under section 66(6). Under Bill 19 C would have to appeal instead to the minister. The minister considers the request from C. The minister must then consult the Chief Justice of the Court of Queen's Bench, who in turn must assign a judge to act as an arbitrator, sections 13 to 19. That assigned judge must then find time to review the material and render a decision. So there's no deadline for the arbitrator. Somebody who happens to be in this position ends up losing in a major way in terms of trying to get the information. So that's the 13th reason.

Just in case someone thinks that this is only of academic interest and the sort of thing that I've dreamed up to point out what I think is a flaw in the Act, we don't have to look any further than British Columbia. In British Columbia it's been alleged that Premier Harcourt may be in a conflict of interest situation as a consequence of certain dealings between the B.C. government and a consulting firm. Now, there were some documents in the possession of Mr. Ted Hughes, the Ethics Commissioner. Mr. Hughes, the Ethics Commissioner, had certain documents that had been sought by a Vancouver publisher. So what you had was a scenario . . .

MR. MITCHELL: Mr. Chairman, could we have some order over there, please? Thank you.

AN HON. MEMBER: Order. Are you kidding? Cut him off.

MR. MITCHELL: It's called respect.

THE ACTING CHAIRMAN: Hon. members, if you have a point of order, then I would hope that you would stand up and make it. Thank you.

MR. DICKSON: Mr. Chairman, so what you've got then in British Columbia is a case where the B.C. Information Commissioner may well be required to order the Ethics Commissioner to produce documents. So I think that's a problem.

Now, I expect there are some other members that will want to also raise concerns, so I'll sit down and ensure those other members have such an opportunity.

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

MS LEIBOVICI: Thank you. I have in front of me one beginning set of investigations that I'm sure the freedom of information officer will have on his desk the minute that he's appointed. It's just a fraction of the information that this individual has managed to get to this point in time, and he will be asking for box loads more.

When I heard that the minister said, well, we've only had 22 investigations and therefore the Ethics Commissioner should be able to take on the function of freedom of information officer, I looked at what happened in B.C. in the first eight months. In the first eight months there was 275 requests. Two hundred and seventy-five requests. Now, we have in front of us one of the most secretive governments across this country, and do you think that when the freedom of information officer is appointed people are going to sit back and are going to say, "Oh, I'm not going to ask for that piece of information"? They're going to be lined up at that commissioner's door to get information that they have been waiting for for years.

I think this government is doing a great injustice. I think they are doing an injustice to the Act that was passed in the last session. They're doing an injustice to the intent of freedom of information. They're doing an injustice to the citizens of this province.

I know that within a half a year, within a year the commissioner is going to say: "I can't handle it. I can't handle doing this job on a part-time basis." You know why I know that? I know that because of the requests that are piled up and waiting at the doors. I know that because each department will have a freedom of information officer that will require someone to ensure that there's consistency within each department of government. I know that because the commissioner has a budget of approximately \$500,000, and that includes staff who will have to report through to that commissioner. I know that because when I look at part 3 of the Act and I see what kinds of things the commissioner is responsible for monitoring, it is impossible for an individual to do that, to fulfill the function of freedom of information on a part-time basis.

I know that because when I was employed with the city of Edmonton I was requested to take on the position – it was only a part-time position – of equal opportunity officer for the city of Edmonton. That was for an organization of 12,000 employees. That was a fraction of the responsibility that this commissioner will have. We are looking at a position that will be responsible to all of the citizens of this province, that will have all of the departments of the government potentially reporting through to the

commissioner to request things in terms of conducting investigations, making orders under particular sections, informing the public about the Act, a very similar job description to what I had, on a fraction of the scale, as a part-time equal opportunity officer. I can tell you that within a year and half, two years that position became a full-time position. It not only became a full-time position; there were two people employed to undertake that function. It is impossible. After I left, they needed two people to replace me. [interjections] You're right; you're a hundred percent right. It is impossible; it is an impossible situation to put any individual in.

12:50

Just read on page 41 of the Act what this commissioner's responsible for. "Inform the public." Well, maybe that's one of the things, because the commissioner won't have time, that won't get done. Maybe that's one of the things that this government wants not to get done, that the public's informed. "Receive comments from the public concerning the administration of this Act." Perhaps when there's a complaint from the public, it may have to wait a month, it may have to wait two months, it may have to wait three months because it's a part-time position. The commissioner cannot do it. "Engage in or commission research into anything affecting . . . this Act." Perhaps that can't get done either. "Comment on the implications for freedom of information." "Authorize the collection of personal information from sources other than the individual the information is about." This is extremely important. This is an area where the commissioner says that you can get information other than what the individual has provided. "Bring to the attention of the head of a public body any failure to meet the prescribed standards." That's where the commissioner brings to the attention of the front bench any problems, any failures to meet prescribed standards. And "give advice and recommendations."

[Mr. Tannas in the Chair]

This is a part-time position? This is the position that you think will be able to fulfill the functions on a part-time basis? Are we talking a 35-hour workweek? What's the workweek of the commissioner? Thirty-five hours? So we're talking 17 and a half hours that the commissioner will be able to give to freedom of information. If the commissioner is not there, who is then responsible for the department? Who is responsible for ensuring that these functions will be carried out?

What we are doing is entrusting within the office of the commissioner that freedom of information and protection of privacy will occur within this province. As I indicated earlier, what is happening by saying that it can be done on a half-time basis – and I'm sure that the current Ethics Commissioner could fulfill the position quite adequately on a full-time basis. I have full respect for the current Ethics Commissioner. But I think that in terms of putting the commissioner into an impossible situation, a situation that's guaranteed for failure, this is the way to do it: have that commissioner be a part-time position. It is not possible for that to occur.

Now, Mr. Chairman, I will continue, but as you can tell, my voice is getting hoarse, and the din from the opposite side is making it very difficult for me to continue. [interjections] The din from the opposite side is making it very difficult for me to continue. I would gladly lower the tone of my voice if the din from the opposite side would lower as well.

THE CHAIRMAN: Hon. members, I wonder if we could cut the din down.

MS LEIBOVICI: I strongly urge that they consider the impossible position that they are putting the commissioner in. It would be like saying that the members of the front bench could be part-time ministers. I question the Minister of Health: can you do your job on a part-time basis? The Treasurer: do you wish to be a part-time Treasurer? The Minister of Education: could you do your job on a part-time basis? That is exactly what you are asking the commissioner do, that the commissioner do this job . . .

Chairman's Ruling Decorum

THE CHAIRMAN: The hon. member is just reminded that it's somewhat encouraging to those who would be stirred at this time of night when you bait them. The hon. member is reminded that if you bait members, they will stir, and then to complain that they're making too much noise is kind of a self-fulfilling exercise. So I wonder if you could get on with the amendment, which is A10, without singling out all the different members to be mentioned.

MS LEIBOVICI: I beg to clarify that I have no intention to bait. My intention is to point out that the requirements of the position are equivalent to that of perhaps one of the ministers of the Crown and that if the ministers and the government can say that this position can be a part-time position, I think we can make the comparison that the ministers' positions can also be considered as part-time. I'm sure they would take that and say that that is not the case.

With regard to rising to the debate, so to speak, the din was there before I made that comment, Mr. Chairman.

Debate Continued

MS LEIBOVICI: In my closing remarks . . . [some applause] I'm sure that the applause was that those members are going to be voting for the amendment that was put forward by the Member for Calgary-Buffalo. The disservice that is done with regard to the appointment of a part-time commissioner is one that we can rectify at this point of time. We can turn around and say that it should be a full-time position so that people in the province of Alberta will have full access, will not have unnecessary delays, and will be able to obtain the information that they have waited many, many years to receive.

Thank you.

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

MR. SEKULIC: Thank you, Mr. Chairman. I rise in support of the amendment from Calgary-Buffalo. Once again I was one of the original members of the Premier's all-party panel. That was in the early days, when he actually believed in the all-party process. That original Bill, that we brought before this Legislature, was a solid Bill, and I think Albertans could have been quite proud with what we as a Legislative Assembly were offering them.

Mr. Chairman, given the track record of this Conservative government – and I know these numbers particularly interest the Treasurer: \$32 billion of debt, \$9 billion net debt, \$3 billion which were thrown away in loan guarantees – a part-time commissioner can hardly do justice to the amount of information that's required to be given out. Just the fact that this is one of the last provinces and one of the last jurisdictions in North America

to come onstream with a piece of legislation like this and then to suggest that, well, we really don't need to go full time; we can do it half time – it's really an insult. I can't understand the government. Not one member has stood to defend why a half-time commissioner is desirable. I know that some of the members, surely more than just a few of the members . . . [interjection]

MS LEIBOVICI: No. There is a reason. They don't want freedom of information in this province. That's the reason.

MR. SEKULIC: Mr. Chairman, that could be it. It's the funnel process where it comes to the bottleneck. There's a real need for more information to pass, but it'll go through a bottleneck. A part-time commissioner will be that bottleneck, not because he's not competent but rather because he's confined, he's restricted by the terms that this government is imposing on him.

I think Albertans deserve more. I think they deserve better. I think they've waited long enough. If they're not going to accept this friendly amendment, this amendment which is in favour of presenting Albertans with what they want, access to information that pertains to them, information which pertains to their government and their elected officials, if they're not going to support this amendment, Mr. Chairman, what I would like at least for one of those ministers, for one of those members who was here for the last eight years or nine years or 10 years, whatever the case may be, as they were loading up debt, I would like them to describe why they are voting against this amendment. It's the least they can do. They've been sent here by Albertans to represent the views of Albertans, so the least they can do is tell Albertans why it is that they're not willing to have a full-time commissioner. Mr. Chairman, what doesn't wash is that it costs another \$30,000 or \$35,000, because we're talking about an \$11 billion budget. Even the minister of transportation would agree that \$11 billion of taxpayers' money is a lot of money and that the consumer is entitled to know what they're getting for that money. Mr. Chairman, if they are going to vote against this amendment, I for one would appreciate and I know Albertans would appreciate knowing why it is that they're voting against the amendment.

1:00

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

MR. ZWOZDESKY: Thank you, Mr. Chairman. My concern here with this amendment and the reason that I would support it is very simply that I think that by supporting it the government has an opportunity to send out a proper message to the people. The message is that the position of Ethics Commissioner ought to be full-time, ought to be looked at as something that isn't just done part-time or on the side. If you vote against this amendment, what you're really saying is that you don't take this business seriously enough.

I have yet to hear from anybody in Alberta that they have ever had too much information. That's not been the case. I have yet to hear from anybody in Alberta that they have had too much disclosure. In fact, as you well know, the opposite is true. People in this province are sick and tired of not getting the full information that they request. Had it not been for some probing through this type of legislation elsewhere, we would never have found out about things like the NovAtel fiasco, for example, which we got a lot of information about from the states. So here's an opportunity for the government to preclude that very kind of thing from ever happening again.

It should very much be in your favour to take a look at this and say, yes, there's enough work to be done in this area that it should be full-time. That would send a proper message out there that you really do care and that you really are concerned about protecting the taxpayers in the final analysis. Having somebody, however competent that person may be, serving two positions in a part-time fashion is like trying to serve two masters at once; it just doesn't get done as effectively no matter how talented that individual may be. I think that by allowing somebody to take on this position on a full-time basis, such as this amendment or group of amendments would allow to happen, Mr. Chairman, we would actually have the ability to put somebody into the position who could study it, who could look at this whole freedom of information section, obviously come back to us with some real suggestions that would be helpful to the government as well. By simply looking at this in a perfunctory fashion, all that is happening here is that the government is reinforcing some shroud of secrecy, which I know is not their intent. I'm sure it's not their intent, Mr. Chairman, to do that, but that's the impression that gets conveyed.

So why not just open this up? What would be wrong with accepting this simple amendment to make these positions full-time. I would suspect that if somebody did have the opportunity to work at it full-time, they would probably be able to resolve a lot of the difficulties that we've had over the last several days during the debate, making it clear from one side of the House to the other.

I know that our Member for Calgary-Buffalo has met with the minister and tried to carve some sort of an understanding on these various amendments. That didn't go through as quickly or as smoothly or as totally as either of them perhaps had hoped, so here we are back again debating it. I think that if we were able to move something forward in this area, it would only come as a result of somebody taking it much more seriously than has been done up until now.

I go back to when this Bill was first created by one of the members from this side of the House, who brought it forward. It was the hon. Member for Edmonton-Glengarry, who was the leader of the Liberal Party at that time. It was a very serious Bill then. I think it had enough fleshing out, as it were, that it portrayed what Albertans at the time wanted. I don't think that the wants and needs of Albertans with regard to their craving for information has been diminished whatsoever, especially by the recent initiatives of this government. So I fear that we're taking some steps backward by not absorbing at least some of these amendments that are coming forward.

Here is one amendment that clearly would allow so much of the backlog to get caught up, so much of the misunderstanding or perhaps misinformation that is floating around out there to come home to roost under the careful guiding hands of a professional person, a competent person who could work at this full-time. As the last province to usher in something like this, I think it would be a tremendous mark of good faith on the part of the new government, that is acting on behalf of all Albertans, to put forward something that really sets them apart from previous administrations. This one amendment would at least allow that to happen.

So I would urge everybody to support this group of amendments. I'm sure there might be some other colleagues who have some comments they want to make, so I will conclude, knowing that openness, transparency, honesty are at the heart of all of this and that a full-time person dedicated to that cause would in fact see it through.

Thank you.

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

MRS. SOETAERT: Thank you, Mr. Chairman. I think I mentioned before in second reading that this is one of the areas that we would be addressing in Committee of the Whole, and here we are on this wonderful morning in Committee of the Whole talking about this amendment that would address the fact that the roles of the Ethics Commissioner and the freedom of information officer would be very difficult for one person to fulfill. The Ethics Commissioner right now is a part-time position, but with this new freedom of information Bill opening up so many areas that people in Alberta have been waiting for for so long, I really feel that this job will be far more than a part-time job. If it's far more than a part-time job, why aren't we giving it a full-time position? If we're going to have a full-time position for this with an open competition, something that the Premier said he would have for all new positions – once upon a time I believe he said that – then why aren't we going through with that open competition?

That's one of my concerns on this, and that's why I would urge everyone to support this amendment. These two roles are very different roles; it's like comparing apples and oranges. I think it's hard for any person to do two different jobs and be expected to do them well with not enough time to fulfill that role as information officer. I'd like to say that in support of this amendment . . . [Mr. Day walked between the Chairman and Mrs. Soetaert]

MR. DAY: Sorry; am I in your way?

MRS. SOETAERT: You're always in my way, Mr. Minister of Labour. But anyway . . .

THE CHAIRMAN: Hon. Government House Leader . . .

MRS. SOETAERT: Thank you, Mr. Chairman.

I would just like to urge all members to support this amendment. I think it's a good amendment. It's certainly no reflection on the present Ethics Commissioner, whom I think everyone in this Legislature admires and respects for the job that he does. That's for sure. Certainly everyone on this side respects Mr. Clark, but it is our concern that with freedom of information this will be more than a part-time job, certainly a full-time job that deserves a full-time position.

With those few comments, Mr. Chairman, I will take my chair and urge everyone else to support this amendment. Thank you.

[Motion on amendment A10 lost]

MR. DICKSON: Mr. Chairman, I think we've worked our way through all of the amendments that we had intended to introduce save one amendment that had been introduced I guess about a week ago and had been withdrawn at the request of the hon. Minister of Public Works, Supply and Services, who wanted time to consider it. The amendment will be here shortly. This is the amendment, members may recall, that said that we would specifically say, "police commissions," so that any Albertan who picked up the law would be able to tell at a glance that a police commission was subject to the Freedom of Information and Protection of Privacy Act. It had always been the government's position that police commissions were included in any event, but I appreciate the fact that the government is going to make that

clearer now to everybody who looks at it. So that amendment is going to be, I think, presented momentarily. Once we've done that, I think we've addressed all of the specific amendments that we had wanted to raise.

1:10

I think that it would be useful before we leave the committee stage – the minister has talked about the savings to Albertans from the part-time commissioner. I wonder if he'd particularize for the record: how much money are we talking about saving, keeping in mind that the salary of the Ethics Commissioner is only I think something in the order of \$40,000? He's still going to continue to be the Ethics Commissioner. I think that, you know, to run a million dollar per year operation, the cost savings are pretty modest. It would be interesting if the minister were prepared to give us that explanation.

Mr. Chairman, have you got the amendment now duly signed, the next amendment?

THE CHAIRMAN: This amendment is to replace the one withdrawn, so it will be known as A2. No?

MR. DICKSON: I would go with the next sequential number, Mr. Chairman. That would be . . .

THE CHAIRMAN: Okay. It's been changed; pardon me. It will be known as A11.

MR. DICKSON: A11? Very well. I'd move A11 and just read it then. The amendment is that Bill 19 be amended in section 2(1)(c) by adding the following after subclause (iv): (v) in subclause (xvi) by adding the following after "that body":

and includes without restricting the generality of the foregoing, a Regional Police Commission, a policing committee or a Municipal Police Commission as established under the Police Act.

Now, my understanding is that this is an amendment that is acceptable to the government. Perhaps the minister can confirm that. I've moved it. Debate has happened already, so maybe we can deal with it expeditiously.

SOME HON. MEMBERS: Question. Question.

THE CHAIRMAN: Okay. The committee would be reminded that yelling "Question" repeatedly is not necessarily the most helpful comment to make.

We have this amendment then, that's A11, and it has the new signatures of Parliamentary Counsel.

[Motion on amendment A11 carried]

[The clauses of Bill 19 as amended agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed? Carried.

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

[Motion carried]

[Mr. Clegg in the Chair]

MR. TANNAS: Mr. Speaker, the Committee of the Whole has had under consideration certain Bills. The committee reports Bill 41. The committee reports Bill 19 with some amendment. 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 ACTING SPEAKER: All those in favour of the report, say aye.

HON. MEMBERS: Aye.

THE ACTING SPEAKER: Opposed, say no. Carried.

head: **Government Bills and Orders**
head: **Third Reading**
(continued)

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

MR. FISCHER: It's my pleasure to move third reading of Bill 19.

MR. DICKSON: Mr. Speaker, the hour is late. In fact, it's about 20 after 1, and a great deal has been said about the Bill already. I'd just point out that I'm disappointed, that while one amendment was passed in terms of the police commission, I think there are some other major concerns with this Bill, some major flaws. We've talked about the part-time commissioner, the fact that there's no open competition. We've talked about the fact that victims of violent crime in particular will not be able to, as a right, get the simplest kind of reason when a decision is made not to prosecute. We've seen increased difficulty that will flow for Albertans that want to access information and records of the Legislative Assembly.

I can only say that there will be a three-year review of the legislation, and we'll have to hope that the government of Alberta in three years' time is prepared to do something that doesn't typically happen, which is to take recommendations in terms of where the Bill isn't working and in fact implement changes to make it stronger.

With that I conclude my remarks, Mr. Speaker. Thank you.

[Motion carried; Bill 19 read a third time]

MR. DAY: Mr. Speaker, I would request unanimous consent of the House to waive Standing Order 73(1) so that Bill 31 . . .

SOME HON. MEMBERS: Forty-one.

MR. DAY: Forty-one. I was just checking to see if everybody was still awake.

. . . as discussed with the Opposition House Leader and opposition members, may move through to third reading.

THE ACTING SPEAKER: The hon. Government House Leader has moved for unanimous consent to go into third reading under 73(1). All in favour, say aye.

HON. MEMBERS: Aye.

THE ACTING SPEAKER: Opposed, if any? Carried.

1:20

Bill 41
Feeder Associations Guarantee
Amendment Act, 1995

THE ACTING SPEAKER: The hon. minister of agriculture.

MR. PASZKOWSKI: Thank you, Mr. Speaker. It's my pleasure to move third reading of Bill 41.

THE ACTING SPEAKER: The hon. Member for Lethbridge-East.

DR. NICOL: Thank you, Mr. Speaker. This is a good Bill, as we've said earlier. It shows that input can be received from the feeder associations, that the groups can all get together and bring out a proposal and a Bill that'll really give the associations what they want. The need for this became really visible a little over a year ago, when they were running short of financing and the ability to support their membership. There was a lot of discussion

at the time, both with the government and the opposition members, to bring out the kind of program that they would like to see, and this Bill really reflects that. I'd recommend that everybody support it.

Thank you.

[Motion carried; Bill 41 read a third time]

MR. DAY: Seeing that we still have – no, we don't have any Bills left on the Order Paper. Mr. Speaker, I want to congratulate all members who helped to co-operate and make this session a successful one for the citizens of Alberta. We would like to now return to the business for which we were elected, which is meeting with our constituents and taking note of their concerns and continuing to manage the process that's already in place.

Based on that, Mr. Speaker, I would move adjournment pursuant to Government Motion 22.

[The Assembly adjourned at 1:24 a.m.]