

Legislative Assembly of Alberta

Title: Wednesday, March 6, 1996 1:30 p.m.
Date: 96/03/06
[The Speaker in the Chair]

head: **Prayers**

THE SPEAKER: Let us pray.

O Lord, grant us a daily awareness of the precious gift of life which You have given us.

As Members of this Legislative Assembly we dedicate our lives anew to the service of our province and our country.

Amen.

Please be seated.

head: **Introduction of Bills**

Bill 12 Services to Persons with Disabilities Foundation Act

MR. CARDINAL: Mr. Speaker, I seek leave to introduce Bill 12, the Services to Persons with Disabilities Foundation Act. This being a money Bill, His Honour the Honourable the Lieutenant Governor, having been informed of the contents of this Bill, recommends the same.

[Leave granted; Bill 12 read a first time]

head: **Tabling Returns and Reports**

MRS. McCLELLAN: Mr. Speaker, earlier today I released a discussion paper of the Provincial Health Council of Alberta and announced the membership of the Health Professionals Expert Panel. I am pleased to file with the Assembly copies of the appeal mechanisms review paper and the news release pertaining to this, which also includes the names of the expert panel.

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

MR. SEKULIC: Thank you, Mr. Speaker. Today with your permission I would like to table four copies of a report titled Report to the Honourable Shirley McClellan, Minister of Health, and The Provincial Mental Health Board. This report has been produced by a number of different parties, and it's titled the Mental Health Action Coalition of Alberta. That's the group's title. This report provides the minister with numerous positive and proactive recommendations for correcting concerns in mental health.

THE SPEAKER: The hon. Minister of Community Development.

MR. MAR: Thank you, Mr. Speaker. It gives me great pleasure today to table six copies of a letter that I have sent to Mr. Ben Ferreira of Edmonton. The letter is to congratulate Ben on his first international junior men's figure skating title at the Orex Cup in Budapest, Hungary. Those members of this Assembly looking forward to the upcoming world figure skating championships right here in the city of Edmonton would be pleased to note that Ben included six triples in his long program.

As well, Mr. Speaker, I'm pleased to table six copies of three letters which I've sent to Miss Brandi Habershtock of Fort McMurray, Miss Michelle Mah of Slave Lake, and Mr. Devan

Nychka of Beaverlodge for their accomplishments at the 1996 Arctic Winter Games in Alaska. Brandi won a Gold Ulu in the intermediate women's figure skating elements competition, Michelle won gold and silver medals in the junior women's 500 and 1,000 individual speed skating competitions, and Devan won the gold medal in the novice open men's figure skating elements competition.

We're all very proud of these accomplishments, Mr. Speaker, and look forward to more successes in Alaska.

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

MRS. ABDURAHMAN: Thank you, Mr. Speaker. I'm indeed pleased and proud to table four copies of Strathcona county State of the County Address. This was history in the making, as his worship Mayor Vern Hartwell is the first mayor of the specialized municipality granted by the province on January 1, 1996. The address also includes the business plan and 1996 municipal interim budget.

Thank you, Mr. Speaker.

THE SPEAKER: The hon. Member for Edmonton-Beverly-Belmont.

MR. YANKOWSKY: Thank you, Mr. Speaker. I rise to table eight letters from Albertans containing recommendations regarding divorce and its consequences to the children of the marriage.

head: **Introduction of Guests**

THE SPEAKER: The hon. Minister of Health.

MRS. McCLELLAN: Thank you, Mr. Speaker. I would like to introduce to you and through you to the members of the Assembly the members of the Provincial Health Council that are with us today. I will introduce each member and ask them to stand as they're introduced, and perhaps we can give them a welcome when they're all standing. First, the chair of the council, Ellen Hambrook; members of the council: Dale Kelley, Joe Acker, Cliff Wright, Terry Katerenchuk, Tom Biggs, Frank Schoenberger, Clara Sigurdur, Don McLeod, and Sharon Matthias, who chaired the appeals subcommittee. They're standing in the members' gallery, and I would ask that we give them a very warm welcome.

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

MR. DOERKSEN: Thank you, Mr. Speaker. It is my honour today to introduce to you students from the Holy Family school in Red Deer. I had the privilege of being in their class last fall, and now they have come to visit us in the Legislature to see the proceedings. I'd like to ask them to rise. They're accompanied by their teachers Mr. Peter Innes and Mr. Glenn Macleod and a number of parents. So if they would please rise and receive the warm welcome of this Assembly.

THE SPEAKER: The hon. Member for Edmonton-Gold Bar.

MRS. HEWES: Thank you, Mr. Speaker. I'm pleased today to introduce to you and to Members of the Legislative Assembly some guests from Edmonton-Gold Bar. We have with us 10 students who are home schooled. They are accompanied by four adults: Mrs. Marilyn Côté-Dupuis, Mrs. Sheila Buchanan, Mrs.

Debbie Dionne, and Mr. Wilfred Buchanan. They're in the public gallery. I'd ask them to stand and be welcomed by the House.

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

MR. SEKULIC: Thank you, Mr. Speaker. It's my pleasure to introduce a group of special guests from the Belvedere school located in Edmonton-Manning. I most recently visited the school during Reading Week to promote the importance of reading and a good education, and the good news is: I was preaching to the converted. Today visiting their Assembly and my workplace are 26 very bright grade 6 students accompanied by teacher Mrs. Dianne Unger and parent Mrs. Debra Shumyla. They are seated in the public gallery, and I would ask them now to rise and receive the traditional warm welcome of the Assembly.

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

MRS. SOETAERT: Thank you very much, Mr. Speaker. It's my pleasure to introduce to you and through you to members of the Assembly three people in the gallery. Heather Johnston is one of them. She wants to grow up to be a page, so she's watching very closely what the pages do today. She's here with her friend Kellie Levers and her mother, Nancy Johnston. Would all three of you please rise and receive the warm welcome of the Assembly.

MR. DAY: Mr. Speaker, we have two visitors with us today from Switzerland. In Switzerland of course all major legislative and budgetary items are settled by referenda, an interesting process that's worked for them for about 700 years. I would ask Connie Lutz and her sister Karin Lutz to rise and receive the warm welcome of the Assembly.

head:

Oral Question Period

Provincial Fiscal Policies

MR. MITCHELL: Mr. Speaker, bankruptcies are up, 20 percent of Alberta's children are living in poverty, one in seven Calgarians used the food bank last year, full-time jobs are down, the only jobs that are up are part-time, poorly paid jobs without benefits. The Quality of Life Commission is right when it says that the quality of life in this province has declined significantly since this Premier took over. The Premier says he can't meet with the commission because he has to have lunch sometime. Why won't the Premier just have lunch with this group to sit down and learn firsthand about some of their solutions to the declining quality of life in this province.

1:40

MR. KLEIN: Mr. Speaker, that meeting is being co-ordinated. The group in question asked for a meeting, not just asked for a meeting but said: we want the meeting on a specific day. Here's that particular day: there was agendas and priorities in the morning; there was briefing for estimates, that they wasted in the afternoon, because I was trying to get prepared for all the questions; then there was my caucus and meetings that I had scheduled with other people. Yes, I like to have maybe 15 or 20 minutes for lunch as well. A meeting is being co-ordinated through Family and Social Services and Health.

MR. MITCHELL: Mr. Speaker, the Premier keeps saying in so many cases to show him the need and he'll act on it. The commission shows him the need. How much more evidence does he need before he realizes that he is creating a permanent underclass of the vulnerable in this province?

MR. KLEIN: How absurd. How absurd, Mr. Speaker. You know, 103,000 new private-sector jobs have been created in this province over the past two years; 70 percent of those jobs are full-time, well-paying jobs.

As a matter of fact, Mr. Speaker, just the other day I had the opportunity of speaking with a person in the city who operates a call centre, employs about 350 people. His largest complaint was that he can't get enough NAIT or SAIT graduates to fill 52 full-time, well-paying positions. That's what's going on in this province.

MR. MITCHELL: Underfund education and you don't get enough graduates, Mr. Speaker. We hit the nail on the head.

Having focused for so long on the dollar deficit, what process will the Premier put in place to assess the extent of the human deficit that he and his government have created in this province?

MR. KLEIN: Mr. Speaker, it has nothing to do with underfunding education. It's the simple fact that there's a hundred percent take-up, almost 110 percent take-up of students graduating from our higher learning institutions in that particular field.

Mr. Speaker, this particular individual has taken the bull by the horns, has become very involved with NAIT here in the city of Edmonton to further develop the opportunities for graduates in computer sciences.

Home Care

MR. MITCHELL: The Premier constantly promises that disabled Albertans will have . . . [interjections] It's my second set of questions, Mr. Speaker, if this crew over here would pay attention. [interjections]

THE SPEAKER: Order. [interjections] Order.

The hon. Leader of the Opposition.

MR. MITCHELL: Thank you, Mr. Speaker. The Premier constantly promises that disabled Albertans will achieve improved quality of life by being able to stay in their own homes, but reality has a way of rendering those promises quite hollow. The case of Carla Vaughan of Edmonton graphically illustrates broken promises. This woman, who suffers from cerebral palsy, has lived on her own with the help of home care for 12 years, but that's coming to an end. She will get none of the promised increased funding for home care. In fact, her funding is being cut by one-third. To the Premier: does he think that Carla Vaughan's quality of life will improve now that she will be taken out of her home and put into an institution because of this Premier's home care cutbacks?

MR. KLEIN: Mr. Speaker, there are two sides to every story, and to tell the other side and the true side, I will defer to the hon. Minister of Health.

MRS. McCLELLAN: I think that if the hon. member opposite were being entirely fair, he would understand that that decision, the latest information I have, has not been concluded and that

there is an assessment process for all persons who require home care services. Mr. Speaker, my office is quite aware of this. The Capital regional health authority are working with the particular client.

What is important is that we match the needs to the care, and that is the process that we should be following. There is not an automatic number that is right for everyone, Mr. Speaker. We want to make sure that the precious health care dollars we have are being distributed in an appropriate way to people that need them. That is why we have a home care assessment team.

Mr. Speaker, there has been some discussion that the Capital health authority has removed their \$3,000 amount, which is an upper cap, for home care patients. That is not correct, Mr. Speaker. What is correct is that the Capital health authority are properly doing an assessment on the patients that they have, particularly in those high-needs areas, to make sure that they are receiving the appropriate care from the appropriate person at the appropriate amount.

MR. MITCHELL: It used to be \$3,000 a month, and now it's \$2,000 a month, Shirley. [interjections] The facts are right, Mr. Premier. You can say they're not, but they're dead right, and you're responsible for the problems that are being created in this province. You are responsible over and over and over again.

How can the Premier believe that people like Carla Vaughan can possibly hire somebody responsible, a responsible home care provider, for what works out to \$2.78 per hour? He's responsible, Mr. Speaker, and he's got to start taking responsibility for what he's doing to the people of this province.

MR. KLEIN: Well, I take full responsibility for what I'm doing for the people of this province, I'll tell you that. One of those responsibilities, Mr. Speaker, is to balance the budget. One of those responsibilities is to dedicate and fulfill our commitment to the pay-down of the debt so we don't leave a legacy of debt. The other is to explore and examine in a reasonable way the reinvestment in this province to ensure that we maintain good health care and good education and a proper social safety network. That's what it's all about. They don't understand.

MR. MITCHELL: Maybe he should ensure that the 100,000 people in Calgary using the Food Bank get fed.

Can the Premier explain how it will possibly be more economical for Alberta taxpayers to have somebody like Carla Vaughan living in an institution rather than living in her own home?

MR. KLEIN: As the hon. Minister of Health pointed out, this is a matter that is under consideration by the Capital regional health authority. If you wish, Mr. Speaker, I will have the minister supplement.

1:50

MRS. McCLELLAN: Mr. Speaker, again I have to reiterate: it is entirely, I think, improper and unfair to draw these types of assumptions when in fact there is an assessment process.

Mr. Speaker, the opposition have a very simple answer for everything: we give everyone \$3,000. That is not the right answer. What is the right answer is that we assess a person's need, we being the health authorities, who have that responsibility, and we ensure that they have the appropriate care to meet those needs, whether it is at home or whether it is in an institutional setting. The hon. member knows full well that there are opportunities for care at home, and there are times when care has

to be delivered in an institutional setting. This Legislature is not the determinant of that. The policies of this government that are passed on to the regional health authorities are those policies.

I would remind the hon. member that we are the people who included all persons under home care. A few years ago it was for 65 and over. We understand that all people have needs and need that opportunity, and we introduced the program that allows home care for all persons in this province, no matter what their age is.

Mr. Speaker, home care is working. We've increased the funding significantly every year since the inception of that program. We have another \$40 million that is available for our regional health authorities in this upcoming budget year in addition to the \$70 million which is additional money that is there for community services. The regions will define the appropriate care for the individuals that come to them in need.

Provincial Health Council

MR. SAPERS: Mr. Speaker, Alberta Liberals have listened to the thousands and thousands of people who have demanded that their health care concerns be addressed. Now we have proposed that an independent – independent – health care watchdog be established. Instead, the government has formed yet another hand-picked committee. In today's news release the Minister of Health describes the Provincial Health Council as an "arms-length body." Now, what the council is, in fact, is good people with good intentions who are being used by a government that is more interested in politics than policy. Will the minister please explain how the council is in any way, shape, or form arm's length, when it is appointed by the minister, investigates matters referred by the minister, and reports back only to the minister?

MRS. McCLELLAN: Mr. Speaker, first of all, I will say that all of the persons who expressed an interest in being a member of the Provincial Health Council in this province submitted a nomination. I can also tell you that those were vetted by a review panel. There were 15 members that were chosen. I am sure that the hon. member is not questioning the qualifications or the integrity of any person on that council, although I personally find his comments a bit offensive.

The council is very arm's length. I have met with them exactly once in their tenure. I was invited to meet with them just a very short time ago regarding their appeals review report and to establish a time for release of that report. The council will tell you, Mr. Speaker, and all Albertans that that report is as it was presented to me, and it has been released.

Mr. Speaker, it has also an expert professional panel, and before the hon. member attacks the credibility of that panel, let me assure him that those names were put forward by the professional associations. So be careful about your comments about them.

Mr. Speaker, this council has the mandate to audit the health system. I can assure you that this council takes their responsibilities very seriously. I have said that I will table their report in this Legislature when they provide it. I have tabled in this Legislature today, within practically minutes of receiving it, their report on the appeals mechanism.

Mr. Speaker, these fine men and women are doing a service for the province of Alberta. They are accountable, they are responsible, and this government values their work.

MR. SAPERS: I sure wish the minister would answer the question that was asked, not the one she expected, Mr. Speaker.

Mr. Speaker, why would the Minister of Health create a Health Professionals Expert Panel and then muzzle those experts by not allowing them to investigate their own concerns independent of the minister or her provincial council?

MRS. McCLELLAN: Mr. Speaker, I have no idea what the hon. member is talking about.

AN HON. MEMBER: Neither does he.

MRS. McCLELLAN: Yeah, that's possible. That is entirely possible.

Obviously the hon. member has not done his homework again. The professionals expert panel is there to assist the Provincial Health Council, work with them, provide them advice and guidance. There is no way that this minister has any mechanism for muzzling those people. They do not report to me. They are there to assist the health council. How the hon. member, as wide-reaching as he is sometimes in his assumptions, could have drawn that, Mr. Speaker, is absolutely beyond me.

MR. SAPERS: Mr. Speaker, I'd like to table a copy of the minister's press release from today, another example, I guess, of her not reading her own press, where it says quite specifically that the "panel will, upon request." Upon request of the minister. I'd like to table this for the minister so she can read it.

My question is: doesn't the minister realize that Albertans have lost faith in the government's ability to respond to their health care concerns and what is needed is a truly independent and responsive complaint process, not just another handpicked committee?

MRS. McCLELLAN: Mr. Speaker, I don't want to give the hon. member a lesson in grammar. Maybe that would be better done by the Minister of Education. It clearly reads in this press release:

The . . . Expert Panel will, upon request, provide the Provincial Health Council with advice regarding technical and professional issues associated with the performance of Alberta's health system.

Nowhere in that sentence is the minister mentioned. "Will, upon request," I would assume from the Provincial Health Council, seeing they're the only people who are mentioned in that sentence.

Mr. Speaker, the names of these people were provided by their associations. The AMA provided their names, the college of physicians provided their names, the AARN provide their names, and they are there to provide that function.

Mr. Speaker, again, I'm offended by the hon. member's aspersions that this council in some way will not provide the mandate that this government has given them; that is, to audit, to monitor the health system to ensure that it meets the needs of Albertans. Well, let me tell the hon. member: I have confidence in these persons on this Provincial Health Council, and I don't doubt their qualifications, their integrity, and their ability.

THE SPEAKER: The hon. Member for Calgary-Currie.

Health Workforce Adjustments

MRS. BURGNER: Thank you, Mr. Speaker. Sometime ago the Minister of Health and the Minister of Labour announced that there would be a health workforce adjustment strategy developed for this province. I have a lot of health care workers in Calgary-Currie with respect to the Children's hospital. As we're now well

into the restructuring of our health care services, we know there is a large number of workers who have been impacted. I'm interested in the results of the workforce strategy announced by the ministers. To the Minister of Health: can the minister tell me exactly how much money has been committed to this strategy and what programs are now in place for the health sector workers as a result?

MRS. McCLELLAN: Mr. Speaker, the health workforce strategy was implemented through the co-operation of Alberta Health and the Minister of Labour. We allotted \$15 million at the outset to cover the three years of the restructuring business plan. Those dollars were allocated to the regions, who we felt were in the best position to understand the challenges of rebalancing the workforce.

There are a number of different initiatives. Some are workforce referral centres. In Calgary and Edmonton they have career transition centres. Mr. Speaker, in Edmonton, for example, I can tell the hon. member that they had a budget of about \$1.5 million. In Calgary last year they had a very similar program. It has been extremely successful, from the feedback that I have had, in meeting the workforce's need for change. Part of that money, Mr. Speaker – and this is a very important part – was an additional \$5 million that was available for developing new training programs, working with the minister of advanced education in those areas.

THE SPEAKER: Supplemental question.

2:00

MRS. BURGNER: Thank you, Mr. Speaker. Then again in light of the apparent success of this initiative, Madam Minister, would you be considering extending the program beyond its current three years?

MRS. McCLELLAN: Mr. Speaker, we're assessing the program right now and the amount of dollars that are left in the program. Certainly if the advice that we receive from the regions is that the adjustment or the restructuring process will be longer, we will consider that. However, as you know, a major part of restructuring has occurred in most of our regions, so I think there'll have to be an assessment.

THE SPEAKER: Final supplemental.

MRS. BURGNER: Thank you, Mr. Speaker. My final supplemental is to the Minister of Labour. What sort of actual benefits are workers receiving from workers' centres or other programs that are set up under this strategy? Do you have some specific numbers and programs that you could share with the House?

MR. DAY: Mr. Speaker, right across Canada health care is going through restructuring. Right across Canada, in every province regions are amalgamating; hospitals are amalgamating. Some hospitals close; some community health centres open. That's happening right across Canada in every province. Many people are looking to Alberta right now in terms of the programs that have begun because of this initiative, an initiative that's had lots of good input from labour and employer representatives. People at, for instance, the health worker referral centre here in Edmonton should be congratulated for the innovative work they're doing and the use to which they're putting these funds.

Just in the last year over a thousand workers, looking at

transition in health care, have received the information sessions; 1,500 have actually had career planning counseling. About 3,000 have actually had individual counseling. In terms of hard dollars to people, there are financial assistance grants of up to \$5,000 that can go directly to individuals who are taking retraining and upgrading. About 800 health care workers have received that benefit right here in Edmonton. They've also taken some interesting initiatives in that particular referral centre in terms of helping displaced workers start new businesses. Something in the order of 80 individuals have actually received dollars to help them start new businesses.

So there have been some very innovative things going on, and those workers at that referral centre should be congratulated for good initiative.

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

Education Funding

MR. BRUSEKER: Thank you, Mr. Speaker. The Calgary board of education has rebelled against the provincial government's edict to cut system instruction support costs. In fact, what they've done is they've approved 1.6 percent of their budget instead of what the minister has mandated at 1.2 percent, a difference of .4 percent. This decision has been made by an elected school board who have, in the words of the minister's School Act, as their paramount consideration, "the best educational interests of the student." So my question is to the Minister of Education. Will the Minister of Education now rescind his policy of enveloping educational dollars?

MR. JONSON: Mr. Speaker, across this province there has been considerable support for the government's direction with respect to concentrating dollars for education on construction on the schools of this province and controlling and reducing administrative expenditure. Mr. Speaker, I see no reason to change our policy with respect to a cap on administration in the school system, and I have no plans to do so.

THE SPEAKER: Supplemental question.

MR. BRUSEKER: Thank you, Mr. Speaker. My supplemental question to the same minister: will the minister allow the decision of the Calgary board of education, a duly elected board, to stand as they have made it?

MR. JONSON: Mr. Speaker, to my knowledge all school jurisdictions across this province are accepting and working very hard to control their administrative expenditure. They are coming within the caps that have been provided. In fact many of them operated for decades within those caps and provided good performance in terms of their local systems. I'm aware through the news media of this recent development, but I see no reason and I do not intend to propose to government to change our policy with respect to those administrative caps.

MR. BRUSEKER: I guess that means that the decision can stand.

My question, then, is: how can the minister call behaviour specialists, subject specialists, English as a Second Language and multicultural teachers part of administration? How does that fit in?

MR. JONSON: Well, Mr. Speaker, I think it should be very clear

that if there is a teacher who is working particularly in the area of speech pathology and working in the school as part of their staff, providing direct service to students in this province, we've never questioned that they are part of the staffing of the schools, and they are part of the instructional component. But when we're talking about our overall administrative cap – and don't forget we're talking about 1.6 percent plus 4 percent for the overall administration of a centrally oriented nature – I think that it is reasonable to expect that those caps can be met.

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

Flood Preparedness

MR. DUNFORD: Thank you, Mr. Speaker. My questions are to the Minister of Environmental Protection. The minister is aware of course that we had some devastating floods last spring in the south area.

MR. N. TAYLOR: To say nothing about all the private logging in Lethbridge-West.

MR. DUNFORD: Well, our soon to be ex-member from Redwater is just so interesting. I mean I can hardly not listen to what he says, even though it's inappropriate at times. It just keeps proving my earlier comment: he is no Winston Churchill. He proves it day after day after day. It's great.

The minister is aware that our snowpack is above normal this year, perhaps in the order of 20 to 40 percent, so some of our natives down there are getting a little restless. What has the department done to address the concerns of those people in southern Alberta?

THE SPEAKER: The Minister of Environmental Protection.

MR. LUND: Thanks, Mr. Speaker. Certainly the snowpack is much above normal in many parts of the watershed, particularly as it relates to the Oldman River. I must remind the hon. member of course that the flood that occurred last year was in June, so there is a fair bit of time and a lot of things could happen between now and when the highest danger would occur.

That doesn't stop us from planning. As a matter of fact the staff from the Oldman River dam and the disaster emergency programs branch of Transportation and Utilities, the town of Pincher Creek, the MD of Pincher Creek have all been working together to come up with a plan for preparedness in the event of a flood. I want to take this opportunity, too, to thank and compliment the hon. Member for Lethbridge-West and the Member for Pincher Creek-Macleod for their involvement and how they have worked in preparedness as well.

Mr. Speaker, the primary warning system will still be personal contact with the various agencies and the individuals. As a matter of fact there has been a direct line put into the town of Pincher Creek to the disaster services people, and that will help serve as an early warning to the town and to the residents in the MD of Pincher Creek.

2:10

THE SPEAKER: Supplemental question.

MR. DUNFORD: Yes. Thank you, Mr. Speaker. Besides the warning system, what other measures are in place to assist our residents in southern Alberta?

THE SPEAKER: The hon. minister.

MR. LUND: Thank you, Mr. Speaker. I want to take this opportunity to compliment the staff at the dam and the emergency people that worked on that emergency, the flood that we had last year. As I have said in this Legislature before, the dam did a tremendous service to the area inasmuch as the water flowing into the dam last year did reach a peak of 3,500 cfs, and the maximum that was allowed out was 2,500. So it took 22 percent off.

Now, on the preparedness, we're looking at a number of various things. Personal contact is still going to be the number one way, where in fact there's a phone-out and a personal visit. The electronics system is fine, but it does break down. We're looking at things like pagers, phone-out, those sorts of additional things that we could possibly use to make sure that everyone is notified in case of an event.

MR. DUNFORD: Besides a warning system for those downstream on the Oldman River, are there any other precautions your department is doing to ensure the ongoing protection of those living downstream?

MR. LUND: Well, Mr. Speaker, as is always the case after any event, we look at all of the preparedness plans and the notification, so that has been an ongoing process. As a matter of fact, we've expanded it and looked beyond just the Oldman River dam and looked at the St. Mary's and looked at the Red Deer River dam as well to make sure that we have the best preparedness plans in place. As I indicated earlier, there's a meeting taking place in Pincher Creek next Monday looking at the various things that could possibly be implemented that would assist in the case of such an event.

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

Computers for Students

DR. NICOL: Thank you, Mr. Speaker. Students at our colleges and universities are being encouraged and in some cases are being required to have computers as part of their personal assets before they are allowed to enter the education system. For many of these students the cost of a computer creates another financial burden that prevents them achieving the education that they want. My questions are to the minister of advanced education. Mr. Minister, do you have any plans in place right now to work with the colleges and universities to bulk order or in any other way reduce the cost of these computers for students?

MR. ADY: Mr. Speaker, we don't have any plans as a department to co-ordinate that. However, it certainly doesn't preclude the opportunity for institutions to collaborate with other institutions in the province and accomplish the same thing and probably do it better than if we as a department endeavoured to do it.

THE SPEAKER: Supplemental question.

DR. NICOL: Thank you, Mr. Speaker. Currently computers are not allowed as an essential expense when calculating student loan eligibility levels. I'd like to ask the minister if he would be prepared to revise the student loan expense calculations to allow computers to show up as a required expense and increase the eligibility of these students for loans?

MR. ADY: Well, Mr. Speaker, I haven't given consideration to

that, and I suppose there would be some difficulty in defining exactly when a computer is required and when it isn't. It may be much in the eyes of the beholder as to when that requirement really exists. So to answer his question, no, I have not given consideration to that at this point.

DR. NICOL: Mr. Speaker, some of the universities are considering right now making this a requirement. I'd like to ask the minister: if it becomes a requirement for students, would he alter the calculations on the student loan agenda so that it can become part of the eligible expense?

MR. ADY: Mr. Speaker, I wonder if the Speaker is interested in ruling that a hypothetical question?

THE SPEAKER: The Speaker could well do that, but it's also open to the hon. minister to characterize it in that nature if he wishes to, but if it is hypothetical, the minister certainly isn't required to answer.

MR. ADY: Well, Mr. Speaker, in the event that something that hypothetical could happen, we would hypothetically give it some consideration.

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

Trade with Cuba

MR. HAVELOCK: Yes. Thank you. Mr. Speaker, the United States Senate recently passed a Bill that may affect the ability of Canadian companies to trade with Cuba. This Bill includes provisions that would allow the United States government to sue foreign companies trading with Cuba under certain circumstances. It also blocks employees and goods from those companies from entering the United States. To the Minister of Federal and Intergovernmental Affairs: does this Bill contravene the North American free trade agreement or any other Canadian/U.S. treaty in any way?

MR. ROSTAD: Mr. Speaker, the short answer to it is: without having the entire Bill and all the provisions in it, it's difficult to say. I would expect that there is some effect on the North American free trade agreement most particularly as it affects the temporary entrance permit for executives from these companies that might go by.

It's I guess the political silly season in the United States, as happens wherever there's a big election going on. I know that in November we had written to the consul in Calgary expressing our concerns for the Bill as it was progressing through the Senate at that time. There were two Bills coming: one from the Senate and one from the House of Representatives. They were different, so they were conferencing to find a common Bill.

As the member has pointed out, this Bill has gone through the Senate. We have not got the House of Representatives' yet. It also gives provisions for the President to exempt certain countries. Also, some of the provisions that we know about wouldn't relate to too many operations that are effected by Alberta.

Probably we could make a general comment that most countries, other than in times of war, such as the Second World War, don't use extraterritorial legislation to promote their political agendas within their countries, and we would hope that diplomacy will come forward here and there won't be an effect through NAFTA.

THE SPEAKER: Supplemental question.

MR. HAVELOCK: Yes. Thank you. To the same minister. Assuming this Bill becomes law, what means are available to us to ensure the continued ability of Albertans . . . [interjections] Perhaps the hon. member who is clothed tastefully in his bed-clothing would shut up while I ask the question. [interjections] And his partner is in a quilt, but anyway . . . [interjections] These two look like a traveling Howard Johnson.

Mr. Speaker, to ask my question: what means are available to us to ensure the continued ability of Albertans to conduct their business without fear of sanction?

MR. ROSTAD: Again, Mr. Speaker, without having an actual case in point, it's difficult to say, but I know that there have been instances where companies have reorganized themselves to get around this, but again I hope that diplomacy will reign and that they will recognize that there are other ways of solving their problems with Cuba rather than trying to drag the rest of the world into their extraterritorial regime.

THE SPEAKER: Final supplemental.

MR. HAVELOCK: Yes. Thank you. My final supplemental is to the Minister of Economic Development and Tourism, who, I might add, is nattily dressed today. Mr. Speaker, what are the likely implications of this Bill for Alberta business?

2:20

THE SPEAKER: The hon. Minister of Economic Development and Tourism.

MR. SMITH: Thank you, Mr. Speaker. In fact, as we well know, Alberta's growth depends on exports. We export over \$30 billion a year out of a gross domestic product of some \$90 billion. So, in fact, the trade to Cuba is some \$21 million that could be put at risk. It's a small percentage of our overall trade, but also we have to recognize that 80 percent of our \$30 billion in trade does go to the United States.

Alberta companies, Mr. Speaker, have a world reputation of respecting law and are known for their ability to be effective in the world marketplace. They work very closely with the FTA and the NAFTA. They have a great international reputation. I'm sharing the feelings of our minister of intergovernmental affairs in that when the fever season of presidential elections takes place, we're not starved out of the process. I think the big thing is to continue to ensure that our customers, the private sector, are made aware of trading conditions and trading changes in all global markets. That includes Russia, which is changing, China, Iraq, South Africa, and now Cuba. So these markets are always in flux. In fact, these companies take their own profit-maximizing self-interest and make those decisions on that basis.

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

Special Education

MR. HENRY: Thank you very much, Mr. Speaker. Since '92-93 Ritalin use in this province among children has more than doubled. While Ritalin is effective in controlling extreme behaviour . . .

AN HON. MEMBER: It hasn't helped you.

THE SPEAKER: Order.

MR. HENRY: Believe me, Mr. Speaker, for that hon. member I will continue to be extreme.

Mr. Speaker, we know that Ritalin does help control some extreme behaviour among children, but we also know that studies show that it has little significant impact on academic achievement with those children and is certainly no replacement in the classroom for special-needs resources. What we're afraid of here is that we're going to end up with the four Rs: reading, 'riting, 'rithmetic, and Ritalin. So my question to the minister is: what's the benchmark or what point in terms of percentage of children on Ritalin in a classroom would we have to reach before the minister would acknowledge that there's something wrong in terms of resources in special ed and cause him to investigate what's going on?

MR. JONSON: Well, Mr. Speaker, certainly the hon. member raises an issue which is under some discussion and scrutiny, particularly in Calgary, as I understand it. Ritalin is a restricted drug. It is my understanding that it can only be prescribed and accessed by a young person after assessment and on the prescription of a doctor, and certainly it involves the family with the young children.

So, Mr. Speaker, this is a medical issue in terms of these prescriptions and the rate of use. Certainly I'm sure that the College of Physicians and Surgeons and the medical practitioners across this province would not be prescribing any type of strong drug without it being judged to be in the medical interests of the child.

MR. HENRY: Just for clarification. The figures that I'm referring to are provincial in scope, not just in Calgary but provincial in scope.

Since we're seeing a rise in Ritalin and a decrease in funding for mildly and moderately disabled children, I'd like to ask the minister with regard to his funding formula: when he was designing his instructional block in education, how much of that block was intended to replace the removal of the categories of mild and moderate disability from the funding scheme?

MR. JONSON: Mr. Speaker, it is difficult to answer the hon. member's question because it's based on a false premise. We did not reduce the funding for mild and moderately handicapped children within our education system. To respond to the flexibility that school boards said they needed in terms of allocating this, we did provide that same amount of money in a block grant for school boards, and we expect that with that flexibility they will use and apply that money for the needs of the mild and moderate students across this province, along with the overall amount of money that's available to them as regular students within the schools of this province. I would hope that school jurisdictions where they have these needs are suitably applying that money.

THE SPEAKER: Final supplemental.

MR. HENRY: Okay. Putting aside the preamble, would the minister tell us: specifically what was the guideline used, the per student amount, in calculating the amount in the block instructional grant that would be used for mildly and moderately disabled children?

MR. JONSON: Mr. Speaker, I do not have my estimates book with me so that I can quote the exact amount, but it is in the

neighbourhood of \$250, as the hon. member knew before he asked the question.

Fish Disease Control

MR. COLLINGWOOD: Mr. Speaker, the Minister of Environmental Protection has a choice to make about a trout disease called whirling disease. The minister can protect our fish stocks by banning the import of live trout fingerlings, or he can do nothing and put Alberta's \$350 million sportfishing industry at risk. If the minister chooses to let imports continue and run the risk of letting this disease spread, he will need to know that wild populations of trout have declined by as much as 90 percent in areas where the disease is known to occur. My question is to the Minister of Environmental Protection. Is the minister going to act and ban the import of live trout to Alberta, or will he choose to gamble with our sportfishing industry and let the imports continue?

THE SPEAKER: The hon. Minister of Environmental Protection.

MR. LUND: Thank you, Mr. Speaker. This is a very serious situation that we're facing. As I outlined on Monday in the House, it's not quite as clear cut and black and white as the hon. member would indicate. We are certainly looking at closing the border. That is an option we're looking at. We've got to also recognize that in fact there is a great danger to our sports fishery, particularly the rainbow trout. The spores can be spread by a bird eating an infected fish and then traveling over the border – and we don't stop that – and the droppings from that bird could in fact be contaminating our streams.

Now, it may very well be that collecting those droppings would be a good job for a bunch of Liberals after the next election.

THE SPEAKER: Supplemental question.

MR. COLLINGWOOD: Thank you, Mr. Speaker. I'm not asking the minister to regulate bird droppings. What I'm asking the minister is: does he not realize that the import ban is the only effective way of preventing the spread of this disease in Alberta?

MR. LUND: Mr. Speaker, the fact is that today we do not allow the import of any live fish except from some hatcheries that are approved by the U.S. department. They have to be certified as clean. We are looking at the situation in those hatcheries. We have to be confident that we are not going to be putting our stock at risk. Certainly that is something we are studying.

You have to also remember that this outbreak in Montana was just discovered in 1994, so there's not a lot of knowledge about it at this point. We're not sure of its extent and whether in fact there is a great danger in the hatcheries.

THE SPEAKER: Final supplemental.

2:30

MR. COLLINGWOOD: Thank you, Mr. Speaker. To the minister: in choosing to do nothing and to gamble with Alberta's sportfishing industry, has the minister determined what impact a 90 percent decline in trout populations will have on tourism, jobs, recreation, and all parts of our \$350 million sportfishing industry?

MR. LUND: Well, Mr. Speaker, that is totally hypothetical. I would urge the hon. member to go back and read Monday's

Hansard, because I answered all of those questions on Monday except the hypothetical.

THE SPEAKER: The time for question period has expired. This being Wednesday, we'll move directly to Orders of the Day, as there are no points of order.

head: **Orders of the Day**

head: **Written Questions**

MRS. BLACK: Mr. Speaker, I move that written questions appearing on today's Order Paper stand and retain their places with the exception of 158, 160, 161, 162, and 163.

[Motion carried]

Highway Accidents

Q158. Mr. N. Taylor moved that the following question be accepted:

How many nonfatal and how many fatal accidents occurred each year between January 1, 1992, and December 31, 1995, on each of the following roads: the bridge over the North Saskatchewan River immediately north of Fort Saskatchewan, between the north end of the bridge and the northeast end of the Manning Freeway, on Highway 37 between the northeast end of the Manning Freeway and Highway 28A, and on the Manning Freeway between the northeast end of the freeway and Highway 28A?

THE SPEAKER: The hon. Minister of Transportation and Utilities.

DR. WEST: Yes. I accept Written Question 158.

[Motion carried]

Employment Alternatives Program

Q160. Ms Hanson moved that the following question be accepted:

Of the 72 percent of welfare clients who have gone through the employment alternatives program and are now employed or in further training after the three-month evaluation, what is the duration of employment for those classified as employed at the time of evaluation, what percentage of those employed are working full-time, how many are working part-time, what is the average wage of those classified as employed, and for those remaining in training, what kinds of training are they involved in and for what duration?

MR. ADY: Mr. Speaker, in the true order of openness of this government I'll be glad to accept Written Question 160.

[Motion carried]

Enhanced Employment Alternatives Program

Q161. Ms Hanson moved that the following question be accepted:

For those welfare clients who have gone through the enhanced employment alternatives program and are employed or in training after the three-month evaluation,

what is the duration of employment for those classified as employed at the time of evaluation, what percentage of those employed are working full-time, how many are working part-time, what is the average wage of those classified as employed, and for those remaining in training, what kinds of training are they involved in and for what duration?

MR. ADY: Mr. Speaker, I accept Question 161 standing on the Order Paper.

[Motion carried]

Welfare Job Training

Q162. Ms Hanson moved that the following question be accepted:

What are the types of jobs and training and what is the average wage for those welfare clients in the 66 percent success rate for training on the job, and for those remaining in training, what type of training are they involved in and for what duration?

MR. ADY: Mr. Speaker, I accept Question 162.

[Motion carried]

Video Lottery Terminals

Q163. Mr. Wickman moved that the following question be accepted:

What are the detailed procedural steps used to determine the 92 percent payout level of video lottery terminals owned by the government?

THE SPEAKER: The Minister of Transportation and Utilities.

DR. WEST: Yes, Mr. Speaker. I will accept Written Question 163

[Motion carried]

head: **Motions for Returns**

MRS. BLACK: Mr. Speaker, I move that motions for returns appearing on today's Order Paper stand and retain their places with the exception of Motion for a Return 171.

[Motion carried]

Video Lottery Terminals

M171. Mr. Wickman moved that an order of the Assembly do issue for a return showing copies of tests and/or data which certify the 92 percent payout level of individual video lottery terminals owned by the government.

MR. WICKMAN: Mr. Speaker, in anticipation of the minister accepting this particular motion, I'll take the opportunity now to make some comment on it. Otherwise, I lose my . . . [interjection] Just kidding the minister. Go ahead.

DR. WEST: Well, silence is golden. I accept Motion for a Return 171, Mr. Speaker.

[Motion carried]

head: **Public Bills and Orders Other than
Government Bills and Orders
Second Reading
Bill 205
Limitations Act**

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

MR. HERARD: Thank you very much, Mr. Speaker. It's indeed a pleasure to open debate on Bill 205, the Limitations Act.

Before I get into the principles of the Bill, I want, with your permission, to speak briefly on the history of this Bill. Now, hon. members may recall the intensive debate that took place in this House on April 26 last year on Bill 209 and in particular on an amendment to hoist Bill 209 for six months in order to have the summer to improve this Bill.

I recall, Mr. Speaker, that numerous members from both sides debated the hoist amendment. I recall the words of the hon. members for Edmonton-Whitemud and Edmonton-Norwood and Sherwood Park and even Spruce Grove-Sturgeon-St. Albert, Edmonton-Ellerslie, Leduc, and Edmonton-Centre, who all spoke against the hoist but were generally in favour of the Bill itself. On this side of the House, the hon. members for Cypress-Medicine Hat, Grande Prairie-Wapiti, Stony Plain, the Minister of Justice, and myself argued that the Bill needed more work and would be brought back in the fall as a much better piece of legislation.

Well, you can imagine my dismay and my great disappointment, Mr. Speaker, when I discovered that there was no process by which Bill 209 or any other hoisted Bill could be returned to the Order Paper. In fact, I felt a bit betrayed by the system. I would not have argued in favour of the hoist amendment had I known that it was tantamount to the Bill's demise. As I found out last fall, the only time in the history of this great country that a hoisted Bill returned to the Order Paper was in Ottawa in 1882, and that turned out to be in error.

I bring up all of this background to celebrate the fact that in Alberta, through your efforts and your dedication to private members, there has been some progress. Notwithstanding the comments that we heard yesterday from the hon. Member for Barrhead-Westlock – and I agree with a lot of what he said – we have made some progress. There is now a legitimate process for members to defer consideration of his or her Bill. Private members' Bills in this Legislature will never again fall in the abyss of hoist amendments because you, Mr. Speaker, have pointed out that Standing Order 41(c) allows deferral of a Bill to a certain date or the first private members' day after the certain date. So I wanted to thank you, Mr. Speaker, for enhancing once again the role of private members in this House and making it possible for worthy private members' legislation to work its way through this Assembly.

Mr. Speaker, I want to thank the hon. Member for Medicine Hat, who kindly agreed to switch places on the Bill agenda so that this Bill could come up, because I'm sure that his legislation is also very important. I want to thank also the Minister of Justice, whose staff did a tremendous job in terms of the consultation process that has taken place on this Bill.

Since the time that we hoisted this Bill, we've consulted with more than 60 professional associations and interest groups, and I'm pleased to introduce to you today a better, more inclusive, and comprehensive piece of legislation. The responses that we got back from all the consultations were very much in favour of

the Bill, with some minor wording changes, that I'm sure we'll be able to bring in during committee stage of the Bill.

2:40

As society changes, Mr. Speaker, the perception of legal rights and attitudes towards justice change as well. Our present limitations legislation is outdated. In fact, there are a number of areas in which our current Limitation of Actions Act is in need of reform. So with the help of the Department of Justice everyone in Alberta will now be on the same level playing field.

Mr. Speaker, Bill 205 introduces a new approach to limitations law in Alberta. The Alberta Law Reform Institute has suggested a model for limitations law reform, and it is this model on which Bill 205 is based. It rationalizes, clarifies, and streamlines the law as it relates to the time that actions must be brought before the courts in this province.

To clarify, Mr. Speaker, limitation laws establish set periods of time within which a person having a claim must sue or lose the right to do so. The purpose of limitations law is to balance the rights of those who have claims to bring forth against the rights of those who must defend themselves against these claims. Also take into account the interest of society at large. In fact, it was the inability of my constituents to get due process under the current law that prompted me to take action as a private member.

Mr. Speaker, Bill 205 achieves this balance. It strikes the appropriate equilibrium among claimants, defendants, and the public at large. It achieves what the Alberta Law Reform Institute calls justice with the least injustice. This Bill provides claimants a reasonable time to discover that they may have a cause of action against someone else, while at the same time it protects potential defendants and society itself from stale claims being brought forward.

The traditional approach to limitations legislation describes and assigns varying limitation periods to certain types of claims. For example, in our current legislation Alberta assigns different limitation periods for actions in tort, in contract, and against medical and other practitioners. Bill 205 would simplify the system. It introduces a new limitations regime which establishes standardized limitation periods for all claims. Two new limitation periods will be created, including a two-year discovery period and an ultimate limitation period of 10 years.

Under the traditional rule of limitations law the limitation period begins to run when the damage occurs, whether the plaintiff has the means of knowing that he or she has a claim or not. Bill 205, however, provides for a two-year discovery period which commences at the time when the claimant either discovered or ought to have discovered that their injury, for which relief is claimed, has occurred. Mr. Speaker, this provides a remedy for situations in which a claimant does not discover that he or she has a claim until a substantial time after the cause of action occurs. This notion of discovery is one of the fundamental principles of the Bill. A potential claimant can only bring about a claim if that person can discover it. I'm sure you can agree that this is a sensible, fair, and understandable approach.

The provision of a discovery period is one that has been suggested by law reform groups, including the Alberta Law Reform Institute, for many years now. The concept has even been put to practice in our courts by actual case law. In fact, Mr. Speaker, as far back as 1984 the Supreme Court of Canada ruled in the city of Kamloops versus Nielsen case that a cause of action in negligence arises only when the plaintiff discovers or ought with reasonable diligence to have discovered the injury. The discovery period was reaffirmed by the Supreme Court a few

years later as a rule of general application. Judges have now begun to apply the rule of discovery periods to claims based on case law.

Mr. Speaker, decisions regarding discovery periods should not be left up to the courts. It's important that we entrench the rule of discovery periods in legislation. We must ensure that all Albertans consistently have sufficient time to discover that they have a cause of action against someone. Bill 205 will provide a two-year limitation period for all causes of action and all professional groups. This will simplify the system, eliminate the preferential treatment for certain professions in our current legislation, and strike a balance amongst potential claimants and potential defendants.

Under the current limitations Act a number of professional groups receive the protection of special limitations because presumably the risk of liability is greater for professionals who are in the business of providing goods and services for others, including doctors and dentists. Mr. Speaker, the one-year period currently provided can be detrimental to claimants, as often people do not realize that damages have been done until years after the fact. In some cases it may take the claimant at least a year to recover from damages done, to retain legal counsel, and to commence proceedings. Limitation periods should not be unduly short so as to be used by defendants to avoid liability.

Recently in a precedent-setting case before the Court of Queen's Bench between a patient and her dentist the patient realized the damage had been done only after the one-year limitation period had expired. The judge ruled that a lawsuit can be launched any time after the treatment as long as it has been no more than one year since the person discovered the problem. Mr. Speaker, a two-year discovery period is a fair and reasonable period of time. Judges are already using their discretion to determine the appropriate length of time, and it's been determined to be an acceptable length of time in all other jurisdictions that are initiating reforms of their limitation laws.

As important as it is to recognize discovery periods in legislation, relief given to claimants under the discoverability rule must be balanced with some protection for defendants against stale claims. Bill 205 creates this balance with an ultimate period of 10 years, usually from the date of the coming into existence of a claim. The ultimate limitation period is the maximum length of time during which a claim may be brought, relieving potential defendants from the threat of possible legal action indefinitely.

This provision is an important improvement to our current situation, Mr. Speaker. Under the present regime there is no ultimate limitation period for some actions. Defendants are unfairly put at risk from stale claims arising at any time. In fact, some of them may be liable for up to two years beyond the grave and on to the estate of their heirs. Professionals faced with this uncertainty are put to the expense of maintaining records long after they are otherwise useful as well as the expense of maintaining insurance long after the action occurred. These expenses are ultimately passed on to the consumer. The greater the degree of uncertainty of possible legal action the greater these costs are likely to be.

An ultimate limitation period enables professionals to better anticipate possible legal responsibilities and reduce record keeping costs and insurance premiums. Mr. Speaker, the ultimate period frees defendants from the economic and psychological burdens of the endless possibility of potential litigation. In addition, an ultimate limitation period will prevent the court from wasting time and money on old claims for which the quality of evidence is

likely to be poor at best. Over time memories fade, records are lost, and witnesses may no longer be available. A maximum time limit may help to concentrate the resources of the court on current issues.

2:50

Now, there's been much debate over the appropriate length of time for the ultimate limitation period. It is argued that if it's too short, it may not provide sufficient time for plaintiffs. If it's too long, it may be no different than having no ultimate period at all. Some provinces have a maximum limitation period of 30 years. The Law Reform Commission in British Columbia has recommended that the current 30-year ultimate limitation period in that province be reduced to 10 years. It's felt that the 30-year period imposes unreasonable requirements for maintaining records and insurance. As well, there may be little difference between the difficulty of predicting the possibilities of litigation over an indefinite period over one that is as long as 30 years.

The Alberta Law Reform Institute originally recommended an ultimate period of 10 years but has since changed this recommendation to 15 years. Although they do not believe that the ultimate period will strike down many claims, they suggested this particular period of time to ensure balanced protection of all claimants. Clearly, Mr. Speaker, there is little consensus on what the proper length of time should be for the ultimate limitation period.

Liability insurers state that 95 percent of all claims are lodged within five years of completion of a professional service. They also suggest that the remaining 5 percent of claims initiated after five years may be claims that rely upon the mists of time: obscure recollection and availability of personnel who were directly involved. The proposed limitation period provides for liability to run for a period that is twice as long as experience indicates is practical or is a practical requirement.

The Association of Professional Engineers, Geologists and Geophysicists of Alberta also indicates that in North America it is common industry practice and standards to keep records for a five- to seven-year period. In addition, it is a common practice for doctors and hospitals to keep all records for 10 years. These factors indicate that a 10-year limitation period will provide a sufficient amount of time for claimants to initiate their actions and a reasonable amount of time for defendants to be liable for their actions.

Mr. Speaker, all claims subject to this Act are governed by both the discovery period and the ultimate limitation period, and therefore problems of characterization and categorization associated with the current Act would no longer be present. This would eliminate, for example, the need for the courts to have to distinguish between whether an action was characterized as a tort action or a contract action, because under present law the limitation period for a tort action can be shorter than the limitation period for a contract action.

Clearly, it's time to change our present Limitation of Actions Act. The courts have already established the precedence of a discovery period. It's our responsibility to legislate this into limitations law and to balance it with an ultimate limitation period. Mr. Speaker, the objective of Bill 205 is to balance the interests of claimants and defendants while taking into account the interests of society. This Bill will improve limitation laws for both claimants and defendants, and it allows for the timely resolution of legal controversies.

Mr. Speaker, the principles of Bill 205 have received widespread support from the professional associations and interested groups that I have consulted. It is agreed that this legislation is

reasonable, fair, and just, and I hope that members of this Assembly will also agree and support Bill 205. I'll be listening intently to the debate, and I will attempt to answer all questions from colleagues on both sides of the House. I trust that all members will support this Bill.

Thank you very much.

THE SPEAKER: The hon. Member for Calgary-*Buffalo*.

MR. DICKSON: Thanks, Mr. Speaker. I rise to speak in support of Bill 205 at second reading, but I want to make a couple of observations. The mover, the Member for Calgary-*Egmont*, had started by talking about the background and the hoist on Bill 209 on April 26, and it seems to me that begs the question: why is this Bill coming back as a private member's Bill on a Wednesday afternoon? I would have hoped that in the intervening time, since this has been taken off the legislative agenda, our colleague over here the Minister of Justice and all of the analysts in the Department of Justice would have had an opportunity to determine whether in fact it should come forward as a government Bill, and if not, I'm hoping we get an explanation as to why not.

My hope is this, Mr. Speaker. It's fine for private members to come forward with Bills that have merit, but we have seen a number of Bills that have been approved at second reading and haven't gone beyond that point. It seems to me that if really what we're trying to do here and what I think the Member for Calgary-*Egmont* is attempting to achieve is particularly some greater sense of fairness to plaintiffs yet in a way that's fair to defendants as well, the government ought to embrace this. After all, it was 1989, members, when the Alberta Law Reform Institute made their report, which has been integrated into Bill 205. I understand the importance for broad consultation, but is it not fair to ask: in all of that time has the government of the province of Alberta not determined whether we're going to move in this direction and whether we're going to replace the existing Limitation of Actions Act?

So I'm hopeful that before we conclude debate at second reading on this important Bill, we get that very clear indication on the record from the Minister of Justice: yea or nay. Either the government intends to adopt this Bill as a government Bill, or if not, why not? Otherwise, as we've seen with so many other good initiatives that have come forward from private members, it languishes.

We have some good debate. We have some *Hansard* excerpts that members can send back to their constituents. But Albertans are not advantaged in any concrete way, and that's surely what we should be about, even dealing with a private member's initiative. It's still Albertans who are trying to advantage, just not what we do in here.

I'd like to just specifically laud the work of the Alberta Law Reform Institute. I think this is an organization not well known to many Albertans, Mr. Speaker, but it's provided a unique kind of leadership in this jurisdiction. Many excellent reports have not resulted in legislation, but I think in each and every case when a report comes forward from the Law Reform Institute, it does provide us with some leadership, it does provide us with some direction. My only thought would be that I wish we could move with some greater alacrity when they do come forward with thoughtful presentations and recommendations for change.

I'll just say parenthetically that the Member for Calgary-*Egmont* talked about his consultation. Let us recognize also, members, that when a Law Reform Institute report comes out, it's broadly

circulated after publication. So we've had some six years for Albertans, whether in the insurance industry or defence counsel or plaintiff's counsel, groups, organizations, consumers, to be able to weigh in and register their concerns, and I appreciate that the Law Reform Institute has afforded us that opportunity.

Now, one specific concern I have – and I want to raise this with the mover now – has to do with the survivors of incest. You know, the most difficult cases that psychologists deal with are situations where somebody is the victim of incest when they're a young person, when they're an adolescent. It may take that person until they're in their 30s or 40s, undergoing extensive therapy, to be able to deal with what happened to them as a teenager.

3:00

When I look at the Bill – and of course we have to look at the Bill in terms of what it's going to do for claimants, potential plaintiffs – my concern is: I look at section 3 and the two-year discovery rule, that one would think would be the sort of thing that would apply, and I look at burden in section 6, and the burden of course is on the claimant to bring themselves within the disability rule. There's no definition of "disability" in the Act. There's a definition of a "person under disability" in section 1(h), and it includes "an adult who is unable to make reasonable judgments in respect of matters relating to the claim." Now, it sounds to me like this is sort of an incorporation of the test used under the Dependent Adults Act.

I guess my question is to the mover of the Bill. I'm not sure in all cases or even in most cases involving incest, as I've suggested before, that that potential plaintiff is going to be incapacitated, if you will, to the extent to meet the test here, regarding the fact that the onus is on the claimant. I'm a bit unclear in terms of how high the threshold is. I'm wondering aloud whether this is going to empower those people who have been sexually abused by caregivers or uncles or parents when they were a teenager, and now that they're 35 years old and they want to bring a claim, what sort of test, what sort of standard are they going to have to meet? I'm wondering if the mover has turned his mind to that. The Supreme Court of Canada has given some direction in terms of trying to address this problem, but of course the courts act when Legislatures are slow to or haven't done what they should to meet the needs of Canadians. I expect now that the Legislature is in fact legislating in this area, it's within the four corners of the Bill that we have to find the solution. So that's my concern, hon. member, and I'm interested in your thoughts in terms of what impact this will have.

Now, the difficulty always with a limitations statute is this attempt to find some fair balance, balance between, on the one hand, claimants who want to be able to have access to their legal system for recompense and, on the other hand, some degree of fairness and certainty to defendants, who don't have to keep records forever, who are entitled to go about and order their affairs after a reasonable time period safe in the assumption that there'll be no other claim coming at them from out of left field. I want to say that I think Bill 205 and the Alberta Law Reform Institute's recommendations do strike that sort of balance.

Now, I guess the one concern would be that the ultimate period here is identified as being 10 years. My recollection is that the Law Reform Institute recommended 15 years, and even though we're in a period where we pick these things somewhat arbitrarily, I would have preferred to see the 15-year rule rather than the 10-year rule. It's something I'll consider in terms of whether I'm going to propose an amendment to that extent, if and when

this gets to committee. But I'd be interested in the comments from the mover in terms of why he didn't follow the recommendation from the Law Reform Institute for 15 years applying to the ultimate time period and why he chose to go with the 10-year period that he has.

The other thing I say parenthetically: to anybody who has read the existing Limitation of Actions Act, it's I think very confusing. It's very difficult to work your way through. I support any time a Bill that comes forward which I think is more comprehensible, and even though limitation periods may defy the phrase "user friendly," I think this is clearer and easier to follow. By eliminating a host of different limitation periods, depending on different causes of action, I think that's very helpful, in applying only the two tests.

I'm happy to see that we don't talk here about causes of action, because, Mr. Speaker, as you well know, most laypeople don't know what a cause of action is. So I'm glad that that recommendation from the Law Reform Institute has been carried forward into Bill 205. We've looked for simpler words, clearer clarity in explanation, and just a heightened degree of ability to understand, just far clearer than has been the case before.

A couple of comments with respect to specific sections. I'm particularly happy to see in section 3(4) adverse possession being subject to the ultimate rule. I think that's very positive.

Section 4. I think recognizing the equitable doctrine of laches and acquiescence as defences affords the court some flexibility, and it's a very positive thing that those things are carried forward.

Similarly section 9, section 10. There hasn't been a substantive change to the law in terms of part payment or acknowledgements, but I think it's brought forward in a way that's more intelligible to Albertans, to members of the public who may be reading this.

With respect to section 13 I have some concern in terms of the transition provisions. Those are going to be very important. It seems that on the basis of what we've got here, if you had a claimant who has known about an injury for 18 months, when the Act comes into force, should we be that fortunate, that person, then, would have a further two years in which to claim relief. I hope at some point the mover is going to share with us his basis for the kinds of decisions that he's made in section 13 in terms of the transitional provisions, because there's a degree of arbitrariness and there may well be compelling reasons why this transitional regime has been created in the fashion it appears in Bill 205. I'd be interested to hear from the mover what his intentions are in that respect.

I guess the ultimate test is whether this Bill can be more easily understood by litigants, and I expect that will simply have to stand the test of time. There probably is no good test that we can apply in this Legislature to that. I think limitation periods with this Bill will be far more predictable than is currently the case, and I think that's very positive. We get away from the point now where the court, under the existing Limitation of Actions Act, virtually has to make a determination to characterize what kind of action you've got before we know what limitation period will apply. I think in Bill 205 we've been able to avoid that particular difficulty. I've already indicated that I support the notion of having a discovery period as well as the ultimate period.

A lot of smaller concerns and suggestions, but I think what I'll do, Mr. Speaker, is allow other members to speak to the principles of the Bill at this stage. I'll communicate to the mover of the Bill some of the more technical concerns and issues other than those I've raised, and I'd be appreciative if he could respond before we get to a vote on this. I'd be happy to share his

response with my colleagues. Hopefully, this Bill can receive the positive sort of response from every Member in the Legislative Assembly, which I think it warrants and deserves.

Thanks very much, Mr. Speaker.

3:10

THE SPEAKER: The hon. Member for Calgary-Fish Creek.

MRS. FORSYTH: Thank you, Mr. Speaker. I would also like to comment on Bill 205 and commend the Member for Calgary-Egmont for bringing this Bill forward. If we look at the history of limitation of actions in Alberta and across the country, it is evidenced that Alberta's limitation legislation is behind the times.

Mr. Speaker, Bill 205 introduces a two-year discovery period that is balanced with a 10-year ultimate limitation period. The limitation periods apply uniformly to all claims, eliminating the complexity of our current limitation legislation and special treatment for certain professionals. The discovery period provides potential claimants with a reasonable amount of time to discover that they have a claim against someone. Too often is the case where the damages become evident only after the limitation period has expired or where a claimant must retain legal counsel before all of the facts are known in order to bring forth a claim before the limitation period expires. Clearly, our current limitation periods are too restrictive, and they limit the rights for potential claimants. Legislating the provision of a discovery period is fair and reasonable. In fact, the concept of a discovery period has been put into practice in our courts, and it is a widely accepted principle by professional associations and interest groups.

As the discovery period protects the interests of potential claimants, it is necessary to introduce a maximum length of time that a claim must be brought forward to protect the interests of a potential defendant. It is not fair to potential defendants or society at large for potential defendants to be faced with the threat of legal action indefinitely. Mr. Speaker, the ultimate limitation period proposed in Bill 205 extends for 10 years from the time the claim comes into existence. Having a maximum length of time that a defendant could be sued for an action would decrease the costs significantly to most potential defendants and to society at large. Potential defendants would no longer be forced to maintain costly liability insurance and maintain records indefinitely. They would have peace of mind knowing that after 10 years they are no longer liable for an action. We must provide claimants with a reasonable amount of time to bring forth a claim, but we must also provide defendants with a reasonable amount of time to be liable for their actions.

Last session the Member for Calgary-Egmont introduced a Bill amending the present Limitation of Actions Act. As you may remember, Mr. Speaker, many of the members of this Assembly supported the member's amendments to Alberta's limitation laws. However, there were members who expressed concerns that the proposed legislation needed to be more exclusive and that perhaps the length of the ultimate limitation period, then seven years, was too short. I know that the Member for Calgary-Egmont has been working closely with the Justice minister and consulting with various professional associations to make Alberta's limitation legislation more effective, comprehensive, and fair. The final result is what we see today: the Limitations Act.

Mr. Speaker, Bill 205 establishes two limitation periods to which all claims are subject. Under this Act certain professions and associations will be liable for longer periods of time than under the current Limitation of Actions Act. These are the professions that are listed under section 55 of the present Act, and

they are now liable for only one year. An Alberta Court of Queen's Bench judge recently ruled that the one-year limitation period was patently absurd as it bars a claim for damages before the plaintiff is even aware of its existence. The judge ruled that the discovery rule, which has been termed a common law rule, should not be applied in a restrictive manner; rather it should be applied as a general rule. It is our responsibility as members of the Legislature to legislate this case law to ensure that it is applied fairly and to all Albertans.

The provisions of Bill 205 have received general support from various professional associations that have been consulted. The Member for Calgary-Egmont has been very thorough in contacting all kinds of groups that may be affected by this legislation. The Alberta Association of Architects is just one of the many associations that has expressed its approval of Bill 205.

Presently liability extends beyond the grave for architects and engineers or to heirs, successors, and assigns. Under our current legislation claimants have five years after they discover or should have discovered a problem with any construction to initiate a lawsuit. Essentially, Mr. Speaker, the limitation period now extends forever plus five years.

The Alberta Association of Architects welcomes Bill 205 as it is in agreement with the standard liability periods for all claims and supports the 10-year ultimate limitation period in conjunction with the two-year discovery period. It is felt that the provisions of Bill 205 protect the public completely while providing a time of liability which is reasonable to a practitioner.

The proposed legislation provides for the opportunity of greater financial stability among consulting firms that are presently forced to maintain expensive insurance premium payments.

Mr. Speaker, even those who are included under section 55 of the Limitation of Actions Act and are subject to a one-year limitation period are in favour of these changes proposed in Bill 205. The Alberta College of Optometrists supports the introduction of uniform limitation periods for all professions and the elimination of potentially unfair or arbitrary distinctions contained in the current legislation. Although this group of professionals is currently protected by section 55, they feel that it creates preferential treatment for certain professions and that a one-year time period may be too short to determine whether malpractice has occurred. Surely this is a clear indicator that it is time to change our limitation law in Alberta.

In addition, support has been voiced from many other professional associations including the Alberta Society of Engineering Technologists, the Alberta Dental Hygienists' Association, the Alberta Association of Registered Occupational Therapists, the Institute of Certified Management Consultants of Alberta, and the Alberta Land Surveyors' Association.

I would also like to address one other aspect of Bill 205 today, Mr. Speaker, regarding the legal rights of sexual assault victims. Concerns have been raised over the maximum limitation period of 10 years. It is feared that in some cases it would protect the criminal and not the victim. Quite often victims of sexual abuse experience extreme psychological and emotional problems and are not able to disclose their abuse for many years. In fact, there are many cases that go to court in which the victim was sexually assaulted more than 10 years ago.

Mr. Speaker, Bill 205 does protect victims' rights. Victims of sexual abuse are protected under section 6, dealing with persons under disability. It is designated to suspend limitation periods until such time a person realizes they have a claim regardless of how long it takes. Limitation legislation typically contains special

provisions dealing with people under disabilities. This includes minors and adults who are unable to make reasonable judgments in respect of matters relating to this claim. As a limitation regiment it is designed to give a person sufficient time to discover conduct that might lead to a claim. Fairness and responsibility dictate that the ultimate limitation period should be suspended while a person is under a disability that would prevent them from bringing forward an action. Section 6 provides for a suspension not only when there has been a prior disability, as is the case in present legislation, but also in respect of subsequential disabilities, where the claimant's disability intervenes sometimes between discovery and the ultimate limitation period.

As the Alberta Law Reform Institute's report on limitation indicates, this section covering persons under disabilities is designated to operate in situations such as where sexual assaults have occurred in childhood and the memory of the incident has been psychologically blocked for years.

3:20

Mr. Speaker, Bill 205 protects the rights of victims of sexual abuse. This government is fully aware that for many assault victims one of the most effective ways of empowerment is by addressing the abuser through lawsuits and obtaining compensation for the emotional and economic hard done. Bill 205 ensures that victims will have a reasonable opportunity to deal with their abuse and then to address the abuser.

Mr. Speaker, I applaud the Member for Calgary-Egmont for bringing this Bill forward. Our limitation laws are in serious need of reform. I encourage all Members of the Legislative Assembly to support Bill 205.

THE SPEAKER: The hon. Member for Sherwood Park.

MR. COLLINGWOOD: Thank you, Mr. Speaker. I'm pleased to rise and participate in the debate on Bill 205. I'd like to pick up where my colleague from Calgary-Buffalo made a point. I had a bit of a chuckle when he was saying that one of the things the Limitations Act is going to do is include some plain language to help citizens who do not have legal training understand some of the complexities and some of the technical terminology that we sometimes find in our legislation. It was a noble cause at one point in time in this Legislature to commit to plain language principles in legislation. Somewhere along the way that seems to have been lost.

While there is some attempt in this Bill to improve on that, I couldn't help but notice section 9 of this particular Bill, that refers to "claim," which in fact is what the hon. Member for Calgary-Buffalo was referring to. We don't call it causes of action; we call it claims now so that people can understand it. The definition of a claim includes

the realization of a security interest or otherwise, of an accrued liquidated pecuniary sum, including, but not limited to a principal debt, rents, income and a share of estate property, and interest on any of the foregoing.

Well, Mr. Speaker, if that's plain language, I'm not sure that we actually hit the target.

MR. EVANS: Gary didn't read all the Bill. He didn't get that far.

MR. COLLINGWOOD: That's right.

I, too, will commend the member for bringing back to the Legislative Assembly Bill 205. As the hon. Member for Calgary-Egmont had indicated, I was one of the members who spoke last

year – I think it was Bill 209 in last year's session – very strongly against a motion to hoist this Bill. It was to my way of thinking, Mr. Speaker, a rather extraordinary measure for a Member of this Legislative Assembly to stand and move to hoist a private member's Bill because of the very precious time that we have in this Assembly for private members' Bills to be debated.

Certainly in our procedure for private members' Bills, by virtue of the fact that members of the Assembly have agreed to a free vote, if in the debate members are satisfied that there are some difficulties with the Bill in the second reading stage, the Assembly has the right and the privilege to choose not to pass that Bill on to the next stage with some encouragement to the hon. member to come back with further improvements.

What surprised me is that when the hon. Member for Stony Plain moved the hoist, I had assumed that the Bill would probably find its way back to the Order Paper under Government Bills and Orders and that in fact the Minister of Justice would carry the ball from that point in bringing forward this Bill, which essentially incorporates the recommendations of the Institute of Law Research and Reform dating back to 1989. I'm not sure, Mr. Speaker, what message the government intends to send to the legal community, at least, and the insurance industry and the professional organizations in that they are not bringing forward the Bill under Government Bills and Orders and are simply letting a private member pursue that particular cause.

The Member for Calgary-Egmont did correctly point out that it is only upon the good graces of his colleagues that we are seeing this Bill at all. Because of the procedure that we have in place for private members' Bills to be coming forward, it is often happen-chance that any particular Bill coming under private members' Bills will come forward at any particular time. So it is only by good graces and good luck that we are seeing this Bill at all. We applaud the hon. Member for Medicine Hat for standing down so that we can be debating this Bill at this point in time.

I concur with my colleague from Calgary-Buffalo that the Bill last year was good in concept. The Bill this year is certainly good in concept. It does incorporate the recommendations from the Law Reform Institute. I suppose it's fair to say that it's high time some action was taken. So I do hope, as Calgary-Buffalo does, that the Minister of Justice might give us some indication of the reluctance on the part of the Department of Justice or the minister to bring forward the changes that we are dealing with in debates here.

There are a couple of sections that I find intriguing. I heard the Member for Calgary-Fish Creek and the Member for Calgary-Egmont deal with the fact that with the 10-year ultimate limitation period that is proposed in this Bill, potential defendants, professional organizations and their members and so on, will now have the opportunity to have a definitive date whereby they'll know that the limitation period has come and gone and they'll be freed from all of the record keeping and everything that's necessary after that point. What's interesting about that, Mr. Speaker, is that the Bill as it is presented puts the burden of proof on the defendant. It puts the burden of proof on the defendant to prove that the 10-year limitation period has in fact expired.

Now, that creates a very interesting dilemma for those professional organizations and their members. How long do I have to keep my records after the 10-year period so that I have sufficient proof to carry out the burden of proof that now falls to me the potential defendant? If I'm going to be called upon to go into court and prove that the limitation period has expired, I anticipate that my counsel is going to recommend that I keep my records in perpetuity. How could I ever, then, destroy my records and destroy my proof that the limitation period has expired? The way

I read the Bill as it's coming forward at this point in time, Mr. Speaker: this may create an extra burden on members of professional organizations or other potential defendants, who will now have to find ways to keep their records longer in case they do get sued and have to prove that the limitation period has expired. That is not the case for the discovery period in subsection (1)(a), but it is the case in subsection (1)(b), which is the 10-year period.

So I'm not quite sure we've solved that problem. To me, Mr. Speaker, it boils down to the question of who ought to have the burden of proof in determining that the 10-year limitation period has indeed expired. We might debate that further. It is a concern to me that we may be creating a problem that we hadn't anticipated by placing the burden of proof on the potential defendant.

Now, I know that many organizations, many professionals – and they were again spoken to by the members for Calgary-Fish Creek and Calgary-Egmont – are now moving very quickly in the area of records management and will potentially have much better means and ways to keep records. They can, as has been acknowledged, be lost or destroyed, but nonetheless in terms of the overall planning and the management of record keeping, I think they will have to look at this particular section of the Bill very, very closely as they go through those planning processes.

The other section that I noted with interest – perhaps I'll acknowledge that this one might be of interest only to lawyers – is in the conflicts of interest section, section 12 of the Bill. I find it intriguing, Mr. Speaker. I don't know if there are other precedents in other jurisdictions for this, but what we've indicated is: the conflict of law rules will apply. In other words, if it is a decision of the court that the law of a particular province or a particular state or a particular country will apply, the substantive law, the procedural law in terms of the limitation period will be sort of foisted onto or drawn into the middle of that other jurisdiction's laws.

I'll accept the distinction between substantive law and procedural law, although it's interesting that we might accept the law of another province. Limitation may in fact be considered to be a substantive part of the law rather than procedural, and it'll be interesting to see how it will work when we foist limitation laws on top of the law of Saskatchewan or Texas or Oklahoma or whatever law may happen to be chosen as the appropriate law under conflicts of interest rules in any particular litigation. I looked at that with intrigue, and we'll see, I guess, how that particular one plays out. The Member for Calgary-Egmont may be able to provide me some assistance with that, the issue of how imposing the limitation laws of Alberta will impact on that aspect of litigation when it arises.

3:30

Mr. Speaker, I think I'll just conclude my remarks by saying that we're overdue for this. The courts, as is always the case, manage their affairs. They do find these kinds of problems as they go along. They deal with it as best they can. Sometimes they stretch their decisions to try to accommodate the parties that come before them. I think it will be a benefit to the judicial system, I think it will be a benefit to the legal community, and I think it will be a benefit to all Albertans involved in the legal system that the limitation periods are set out much more clearly than they are in the current Limitation of Actions Act.

So I do stand in support of that and will look forward to further discussion about some of the issues that I've raised in second reading and hopefully hear from the Member for Calgary-Egmont and also hopefully from the Minister of Justice in Committee of the Whole.

Thank you, Mr. Speaker.

THE SPEAKER: The hon. Minister of Economic Development and Tourism.

MR. SMITH: Thanks, Mr. Speaker. It gives me a great deal of pleasure to rise and speak to 205, a private member's Bill. I think the Member for Sherwood Park did a good job of summing up the benefits of it, and there are benefits not only for the legal community but also for the consumer and also as a part of the Alberta advantage. The part about having business knowing some clearly defined limits of the areas in which they do operate and the areas in which they do do business starts to bring up clear advantages for businesses that are headquartered in Alberta.

By taking this move, that is in fact timely and contributes to drawing a fence around what happens in the normal course of business events, this Bill can in fact assist in enhancing the Alberta advantage to companies located outside of Alberta at present and companies that would look towards being in a province that would have this type of legislation, that could support the way they do business and the way they do business with their customers. In fact, in the United States, Mr. Speaker, Delaware has made great strides in providing specific business legislation and specific business conditions that are conducive to bringing more business into that small state. I think this Bill is very consistent with what we are trying to project in terms of the Alberta advantage to the global community. The Bill happens to be very consistent with our business plans, with that of continuing regulatory reform, continuing to make that complex web in which the consumer and businesses act as simple as possible to navigate and to bring disputes and to bring resolution to these issues as quickly and expeditiously as possible.

So I welcome the initiative brought forward by the Member for Calgary-Egmont as well as the support of his colleagues that have worked long and hard on making this an effective piece of legislation that can support the business environment in which Alberta businesses work in today.

Just to conclude my remarks, Mr. Speaker, this is again one initiative that can be brought forward by legislators, by politicians that facilitates business practices in the province, saves both businesses and consumers money in the way they resolve issues. It's a way that governments can bring forth a better business environment without costing any money to the taxpayer, without bringing costly tax initiatives, costly bureaucracy, such as we're hearing today in the federal Liberal budget that again talks about deficits and deficit financing and costs to government. That deficit Liberal way I won't dwell on when we're moving towards a strong Bill that helps to continue to create the environment that allows Alberta businesses to deal expeditiously with its consumers and to create a good business network.

Thank you.

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

MR. EVANS: Thank you very much, Mr. Speaker. I'm going to be brief today in second reading on Bill 205. I would like to begin by congratulating the hon. Member for Calgary-Egmont for his diligence and his enthusiasm and continued focus on what began as Bill 209, through a hoist motion, and today is Bill 205. During the time from the hoist to now there's been an opportunity for the hon. member to take input from those who would be impacted by the changes that have been contemplated in Bill 205.

I believe – and certainly, as he's mentioned, our staff in Justice have been working with him through this process – that there is a great deal of consensus that the recommendations that are being

promoted in this Bill, which are a reflection of the institute's report in 1989, are positive, are going to be to the advantage of Albertans generally so that there will be more certainty and there will be more equity throughout our province in terms of limitation periods. Therefore, I'm going to be supporting this Bill at second reading. I think there will be some time in the interim to try to get through some of the comments that have been made by some of the stakeholders, none that I've seen thus far that have been of any substantive significance but issues that should be addressed, and there may be some minor amendments brought in once we get to committee to deal with those. Again, I'll continue to work with the hon. member to get us to that stage.

Now, a couple of the Liberal members opposite have said, "Well, why are you leaving this as a private member's Bill?" I think it is appropriate for me to make a couple of comments on that. The Liberals and the members of this government worked diligently to amend the Standing Orders of this House and in the past couple of years have made very substantial changes to those rules so that private members do have a real opportunity to bring forward major pieces of legislation that have impact throughout the province, that they decide to shepherd, that they decide to advocate forth. The process as it's been changed, and by both sides of this House, has been changed to give effect to that kind of dedication, to that kind of vision, and to that kind of perseverance.

Far be it for me, Mr. Speaker, as the Minister of Justice to say to the hon. member, to suggest to the hon. member at some point during the analysis of his legislation: "Well, hon. member, it's been a nice effort. You've been a good boy. Thank you very much for the help, and now I'll stand up and take all of the credit for the great work that you've done." I do not believe that's appropriate. I do not believe that's appropriate at all, and in fact it would be totally contrary to the spirit of the amendments that we've made to the Standing Orders to give hon. members who are not members of Executive Council a meaningful way of inputting into the future of Alberta.

3:40

Now, I think what the hon. member has done is the perfect example of why members on both sides of the House challenged for and advocated for the changes in the Standing Orders. I applaud that member for seeing that opportunity, availing himself of that opportunity, and giving the House the opportunity to applaud him for moving this Bill forward and through and then it becoming a law of the province of Alberta, a very meaningful change that . . .

THE SPEAKER: Order please. The hon. Member for Sherwood Park is rising on a point of order.

**Point of Order
Questioning a Member**

MR. COLLINGWOOD: Thank you, Mr. Speaker. Under *Beauchesne*, I think it's 418, I wonder if the Justice minister might answer a question at this point in time.

MR. EVANS: Absolutely.

Debate Continued

MR. COLLINGWOOD: Mr. Speaker, in the debate of the Justice minister I'm wondering if he can advise us what criteria are used by the government when it stands to move a Bill onto the Order

Paper under Government Bills and Orders, given his argument just now.

MR. EVANS: Well, again, Mr. Speaker, the hon. member's not a member of government, so I'm really happy to explain that very simple process that occurs quite regularly on this side of the House. When a department through a minister decides to move ahead with a piece of legislation, it is often available to the minister and to a member of our government caucus who's been actively involved in a particular issue to work together and to determine that that hon. member who is not a member of Executive Council move that Bill forward as a government Bill, provided it is not a money Bill. As you well know, only a member of Executive Council can move a money Bill forward. So we have a process where we as a caucus work together as private members and members of Executive Council.

In those cases where we have a private member who's enthusiastic and knowledgeable about a particular government-initiated Bill, we then give that member an opportunity to sponsor the Bill and bring it forward. It's very different than this initiative by the hon. member. We, yes, in the Department of Justice have been reviewing this limitation issue, and one of the big issues was: what should be the ultimate limitation period? The hon. Member for Calgary-Egmont has talked about this. Should it be 30 years? Should it be 10 years? You know, we've been working through this.

Credit given where credit is due. The hon. member pushed this matter forward. He took on the responsibility that those good people in Calgary-Egmont had faith in back in 1993, when they elected him to be the Member for Calgary-Egmont. [some applause] You know, we all ought to applaud that, Mr. Speaker. I think I even saw a couple of members over there on the Liberal side applaud that comment. That's why this hon. member is in the House, because he's representing his constituents. That's why he's going to be here after the next election as well. He is an aggressive – oh, pardon me. In the '90s he is an assertive representative of the people of Calgary-Egmont. I say that he's an assertive representative of the people of Alberta. He has an excellent Bill that we are going to . . . Oh, perhaps another question.

THE SPEAKER: The hon. Member for Edmonton-Meadowlark rising on a point of order.

**Point of Order
Questioning a Member**

MS LEIBOVICI: Yes, if the hon. minister would allow a further question.

MR. EVANS: Mr. Speaker, any time the opposition wants to get more information about how we operate in government, the happier I am to try to accommodate. So, yes, I'd be delighted to take the question.

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

Debate Continued

MS LEIBOVICI: Thank you, Mr. Speaker. I'm just wondering if the minister could enlighten us as to whether the reason, perhaps, for this Bill not proceeding as a government Bill is that this Bill will go the way of other private members' Bills that have

been passed in this Legislative Assembly. Specifically, I look at the Bill regarding the motor vehicles amendment from Red Deer-South and also the vulnerable person's Act that was sponsored by the hon. Member for Highwood. If the minister would address that specifically and say whether this one will go the same way as those other two have gone.

MR. EVANS: Well, you know, Mr. Speaker, I think the hon. members on the Liberal side are aware that Royal Assent is one very important part of the process of creating legislation. Proclamation is quite another. Proclamation does not always occur at Royal Assent. There is an obligation on government to deal with stakeholders to be sure that we are ready with the proper regulations and with the proper background to enable us to ensure that proper legislation is passed and then carried out. The hon. member has taken a couple of examples where proclamation did not occur at Royal Assent. That should not be seen as something of surprise, and it should not be seen as a negative in terms of private members' motions.

The hon. Member for Calgary-Egmont has been working very closely, as I've mentioned before, with the Department of Justice. We're working towards this piece of very positive legislation becoming law and being proclaimed shortly thereafter. Now, shortly will depend on how the debate goes here, what recommendations come and are voted on and approved at committee stage, but it is our intention, of course, to move ahead with this very positive piece of legislation.

[The Deputy Speaker in the Chair]

In conclusion, Mr. Speaker, I hope I've given a little better idea to the opposition as to how private members' Bills work under changes that they were party to and why it is that we are proceeding with this Bill as a private member's Bill. A private member's Bill can go through just as quickly or take just as much time as a government Bill, depending on the interest and the enthusiasm and the support in this House. I sense that there's a great deal of support for Bill 205, and I hope we can move on.

Thank you, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Member for Sherwood Park.

Point of Order Private Members' Bills

MR. COLLINGWOOD: Yes, Mr. Speaker. A point of order. I think I'll have to cite – just give me a second here – 23(1):

Introduces any matter in debate which offends the practices and precedents of the Assembly.

The reason I raise the point of order, Mr. Speaker, is that the Minister of Justice as a member of Executive Council just indicated in debate: the reason that we decided to proceed with the private member's Bill was for a variety of reasons. I don't think Executive Council decides which Bills a private member is going to pursue. The private member's Bill is the private member's Bill for the private member to pursue. I don't think the Minister of Justice directs private members as to what Bills can and can't come forward in private members' time through private members of the Assembly. Perhaps what I'd like to do is ask the Minister of Justice to explain what he meant when he said: we, Executive Council, decided to pursue this through a private member's Bill.

THE DEPUTY SPEAKER: I don't know that you have in a point

of order any kind of direction for people to answer. However, in this instance you're raising a point of order on the comments made by the Minister of Justice, and we would invite the Minister of Justice to respond to the point of order.

MR. EVANS: Oh, I'm very pleased to again provide more information to the Liberal opposition, Mr. Speaker, because I know that members on this side of the House know full well that the process for private members' Bills is reviewed by the government. I'm talking about the larger government. I'm talking about the government caucus. I think if the hon. member will review *Hansard*, he'll see that I was not speaking about the Executive Council in talking about what Bills come forward and what Bills are approved by this Assembly with respect to private members' Bills.

We have a process in government, and without giving too much information away to the Liberals – because they might try to duplicate or mirror some of the things we do, and we don't want that to happen, Mr. Speaker. But to give them a bit of a flavour of how we look at private members' Bills, the government side reviews private members' Bills. We discuss them. We are a team on this side of the House. We want, we seek out input from private members and members of Executive Council with respect to proposed legislation. That's what a team is all about. That's what makes this the preferred team of the people of Alberta.

3:50

THE DEPUTY SPEAKER: Well, hon. members, it would seem to the Chair that private members' public Bills are essentially that. I hope I didn't get the impression from the hon. Minister of Justice that somehow the private members' public Bills that may be proposed by the private members who are on the government side are government inspired and government vetted. [interjections] Order.

The Chair had to remind members on various occasions in the past that these private members' public Bills are essentially that. They are not government Bills. I hope that I misunderstood what the hon. Minister of Justice was saying in response to the point of order as raised by Sherwood Park.

MR. EVANS: Well, if I may try to clarify, Mr. Speaker. I'm really glad that you brought this to my attention. You, sir, are very knowledgeable of the Standing Orders of this House, and those Standing Orders are very clear. Private members' public Bills are just that: they are members' Bills. I was pointing out the team effort that we on the government side use to try to assist our private members to get a broad consensus from people representing all corners of this province as to how those Bills would either find favour or find some concerns, some legitimate concerns, prior to those matters coming into the House.

That in no way, shape, or form, Mr. Speaker, was intended nor in practice ever does control or take away from the authority that is vested in private members by the Standing Orders that we have amended recently to give more effect and more opportunities to private members to take on such important procedures as are being suggested in Bill 205.

So I hope that clarifies it, Mr. Speaker. My comments are completely consistent with and in support of the Standing Orders that we have and as we have amended recently.

THE DEPUTY SPEAKER: Well, to the extent that that may clarify it, I would hope that the comments the Chair made a moment ago still stand. It would seem reasonable to the Chair

that a private member may propose a Bill which the government may not approve of and may still go forward, even though that private member sits on the government side. If we don't have a dispute on that kind of issue, then I think we may continue on.

Debate Continued

THE DEPUTY SPEAKER: If I remember correctly, it was the Minister of Justice who had just concluded his remarks, and the point of order was made at the end of that.

In further debate, the hon. Member for Lethbridge-West.

MR. DUNFORD: Thank you, Mr. Speaker. First of all, I'd like to commend the Member – the assertive member – for Calgary-Egmont on the tremendous efforts he has made toward improving Alberta's limitation legislation and for bringing forward this Bill. We all recall in the last session that the member did bring to our attention the fact that our current legislation was outdated, complex, and certainly in need of revision, so I'm pleased to see the new limitations Act brought forward.

Limitation legislation must provide a balance between the interests of the claimants, the interests of defendants, and the interests of society at large. Our present legislation does not create this balance in my opinion. Currently a number of professional groups receive protection under special limitations. Professionals listed under section 55 of the Limitation of Actions Act such as doctors, dentists, and chiropractors are subject to one year of liability, compared to the two years that everyone else is liable for under a tort action. So in many cases one year is not a sufficient amount of time for claimants to know the damage that's been done to them. In some instances of malpractice the injury may not reveal its symptoms within the one year after the damage has occurred, and therefore the person is quite likely to be legitimately ignorant of its existence. So even if a person has symptoms, he may not be in a position to connect those symptoms with any conduct on the part of the professional. For example, a situation might exist where a physician negligently examines a patient and fails to properly diagnose a medical problem. The patient is left with the impression that he is medically sound, thus postponing – geez, I can't say that word – necessary medical treatment.

MR. AMERY: Do you need your glasses?

MR. DUNFORD: My colleague says that I may need my glasses. It's my mouth that's not in order. My eyes are quite fine.

Clearly, in this instance the one-year limitation period is too short, and it's an unfair disadvantage to any potential claimant.

Bill 205 eliminates special provisions and provides uniform limitation periods to all causes of action and all persons under the Act. This simplifies the system and eliminates preferential treatment, creating a level playing field for all professionals.

Under the present Limitation of Actions Act the limitation period begins when damage occurs, whether the plaintiff has a means of knowing that he or she has a claim or not. Bill 205 creates a discovery period of two years. This provides claimants with the time required to discover that damages were done, that they were to some degree attributable to the conduct of the defendant, and that the damages were sufficiently serious to warrant bringing a proceeding. Mr. Speaker, this provides a person with a reasonable opportunity to commence an action. However, and of course, this two-year period cannot go on forever.

The establishment of a discovery period must be balanced by an ultimate limitation period. I believe that Bill 205 creates an ultimate limitation period of 10 years to set an outside limit on the amount of time that a person has in which to bring the claim. It is not fair to the defendant to be subject to the possibility of legal action indefinitely, and Bill 205 recognizes this by including an ultimate limitation period.

From the point of view of a defendant there are four purposes for implementing an ultimate limitation period. The first is peace of mind. It is of special concern to professionals that at some point in time after an occurrence of conduct that might be actionable, the potential defendant be able to assume that he or she is no longer at risk. In addition, as time passes between the occurrence of events giving rise to a claim and a court hearing the claim, the quality and availability of evidence diminishes. For example, memories will fade, witnesses will no longer be available, and documents or other records may be lost or destroyed. An ultimate limitation period will prevent lawsuits based on unreliable or outdated evidence.

It is also important to consider the economic ramifications of a professional being faced with possible legal actions for an unlimited period of time. A potential defendant faced with the possibility of unknown monetary damages may be unable or unwilling to carry on his or her business or personal affairs because of the cost of maintaining records and the cost of liability insurance. Presently a professional architect or engineer must continue to maintain liability insurance after retirement until death, and even then, Mr. Speaker, liability still continues to heirs, successors, and assigns. This is one of the key points that I want to speak in favour of in this Bill, because as a recent drop-in to one of my favourite coffee shops in town, I was able to sit beside an architect, and his explanation of the amount of time that he would have to hang on and hang on and hang on to a potential liability was quite striking.

4:00

Now, a maximum period of time that a potential defendant may face legal action provides for the opportunity of greater financial stability. Mr. Speaker, professionals would no longer be forced to maintain expensive insurance premium payments, no longer be required to divert funds which otherwise could be relocated to job creation or a reduced project cost. It is not fair or reasonable to expect professionals to be prepared for possible litigation indefinitely.

Another consideration, Mr. Speaker, is that if a claim is not heard by a judge until many years after the fact, different social, cultural, scientific, and technical values and standards may form the basis for determining fault. I think we in this Assembly can think of many laws and practices that were considered just in the 1940s and '50s that we do not agree with today.

Although it doesn't involve a particular individual any longer in terms of the liability, we simply have to look back to the cases of sterilization which this government is now faced with. This is part of a continuing responsibility of a government: you know, you have to adopt responsibility for what your forefathers have done. Clearly, in the light of the 1990s certainly no member in this House would ever, ever promote a manner of sterilization ever again. But any student of history can read and, looking at the '20s and the '30s, looking at documented evidence at the time, would understand that the people in the Legislative Assembly at that time were probably justified in thinking they were making a correct and a proper decision.

MRS. ABDURAHMAN: So what's different today?

MR. DUNFORD: Well, it's quite different today, Mr. Speaker, especially on the government side of the House, because we would have a situation where while attaining fiscal responsibility, we do have a social conscience clearly identified by the people of Alberta but unwilling to be acknowledged in any manner by certain members of the opposition.

Clearly, Mr. Speaker, an ultimate limitation period is necessary to provide balanced protection to potential defendants. From the point of view of a claimant, limitation laws must allow sufficient time for an action to be initiated. From the point of view of a defendant, the law must prevent them from being indefinitely subject to the threat of possible litigation. I believe the discovery period and the ultimate limitation period found in Bill 205 create a delicate and meaningful balance between those interests. The provisions of Bill 205 are fair, reasonable, and just and improve the effectiveness of limitation legislation in this province for both claimants and defendants.

Mr. Speaker, the members of this Assembly already agreed on the principles of this Act last session. The Member for Calgary-Egmont has since consulted with professional associations and improved the proposed limitation legislation. I urge all members to support these much-needed reforms to Alberta's limitation laws and to support Bill 205.

THE DEPUTY SPEAKER: Okay; if there are no further comments, we'll ask the hon. Member for Calgary-Egmont to sum up.

MR. HERARD: Thank you very much, Mr. Speaker. We've heard some good debate on this Bill. I'll undertake to answer all of the questions raised by the hon. members for Calgary-Buffalo and for Sherwood Park, whose experience and legal training I respect. Therefore, I will look for the answers and be in touch with them and be prepared to entertain any reasonable amendments at committee stage.

I was appreciative of the Minister of Justice's comments with respect to the fact that on this side of the House we can work on good legislation whether we are part of the Executive Council or not. One of the questions that was asked was why this is not a government Bill. If I look at section 15 of the Act, when this Act is proclaimed – as I expect, with the support of this House, it will be – it does repeal the current Limitation of Actions Act, so I don't see where in the force of law Bill 205 is any less worthy or forceful than any government Bill that comes before this House. I think that's a very important statement to make, because it does mean that in this Legislature private members do have an opportunity to make a difference.

Now, with respect to the questions on victims of sexual abuse and incest, certainly I will be looking very closely to make sure that the details of the legislation do not create problems for those kinds of things.

With respect to the 15-year ultimate period that was discussed, I think the hon. member must have been off on a mental holiday because I did cover that in my discussion. Clearly, 95 percent of all actions occur in the first five years. So we've gone five years beyond that, and it didn't really make any common sense to go much further than that, especially when one recognizes that the province of British Columbia is now in the process of doing the same thing and bringing their ultimate limitation period to 10 years.

With respect to section 13, the transition, I will try and answer

those questions.

Mr. Speaker, I would now call the question and move second reading of Bill 205.

THE DEPUTY SPEAKER: We have the question called for second reading of Bill 205, the Limitations Act, as proposed by the hon. Member for Calgary-Egmont.

All those in support of this motion, please say aye.

HON. MEMBERS: Aye.

THE DEPUTY SPEAKER: Those opposed, please say no. Carried, let the record show unanimously.

[Bill 205 read a second time]

Bill 206 Recall Act

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

DR. NICOL: Thank you, Mr. Speaker. It gives me great pleasure to stand this afternoon and move second reading on Bill 206, the Recall Act.

This Act, Mr. Speaker, I brought back because we wanted to make sure that we had an opportunity to put in place part of the legislative mandate that we went to the doors with that was part of the focus of what Albertans were asking for when they were talking about accountability in government, when they talked about the idea that people elected to serve in the legislative process had to be sure and carry the views of their constituents into the policy process. Elected men and women come into the legislative process with high hopes, reflecting the views they heard during the campaign. Once there, they begin to come under pressures that are generated by the public, that are generated by publics that are beyond their constituency. These publics can include party loyalty, they can include special-interest groups, or they can just include general reflections of other areas, geographic or political, within the province. We have to have a mechanism within our political process that allows for the constituents who elected that member to remind that member that they're there to represent their constituent needs, their constituent goals in terms of the legislative process.

The main part here is associated with the trust, I guess kind of a maintenance of that trust that was generated during the election process, when we had the candidate presenting their platform to the people of the community, going out soliciting that support. This trust then gets built up. We don't want to see a mechanism or an opportunity, then, for the trust to be broken. We have to make sure that the trust relationship really stays on the part of the constituents.

4:10

We all know that hon. members, once elected to the Legislature, deal with their political decision-making in the context of their reflection of the constituency, their reflection of the needs of the province. But, in the end, it's the constituency that has to be represented when the issues are brought before the Legislature.

There are a number of cases when we deal with Bills where geographic areas have sufficiently different interests in the legislation, where social or cultural backgrounds of the constituents create a sufficient difference in view and perspective on a

piece of legislation that we have to be sure that the MLA has the commitment or the continuation to the constituency to make sure they carry that view forth. When we have to deal with this trust or that, we can also look at it from the point of view of accountability. We are elected to deal with the process of getting that constituency's views brought into the legislative process. Then how does that accountability get maintained if the electorate doesn't have a mechanism to remind the MLA, the elected representative, of their wishes?

The main thing that we have to do is look at the structure of the election process. Right now basically the only mechanism that a constituency has for that accountability is to have a general election. Well, Mr. Speaker, general elections occur on a three-to-five-year cycle basis at the discretion of the government. The constituents themselves have to look at that time frame in terms of how they can keep their MLA, their elected representative, in tow or in line with their own wishes.

Mr. Speaker, on a number of occasions in the last two and a half years since being elected to this House, I've had constituents come in and say, "You know, I recognized how you voted on that piece of legislation, but, boy, it doesn't represent my view." So we sit down and we talk about how their view differs from the reasons and the rationale that I use to justify how I voted in this Legislature. Then we end up talking about how the two views differ, the view the constituent has and the view I had in terms of what I thought the constituency wanted, and which one of those views really reflected the constituency. On a number of occasions we've been able to work with the constituent and have the constituent leave believing that I had voted in the best interest of the constituency. In other cases we end up in the position that that constituent truly believes I did not vote per the majority of my constituents.

Well, Mr. Speaker, having this kind of legislation in place would allow that constituent a route to follow. If that constituent can go out in the community and get enough support for their idea so that they believe they can go through this process outlined in Bill 206 to have me held accountable, that gives the constituent a real sense that they are in control. That's the way it should be. When we have government, it's the constituents that should be in control. They should be the ones who are guiding the policy process of this province. We need something more than just public opinion polls to tell us whether or not we're making the right decisions on behalf of our constituents. We need more than just the number of phone calls that we get in our constituency offices. We need this accountability where the constituent can come in and say, "I disagree with what you did, and I know there's a number of people in our constituency that disagree with you." They can then have a mechanism to bring you back in line or to make you accountable.

So the idea that recall is not acceptable within a democratic process I find hard to believe. We have to look at how we can deal with this continued evaluation and, basically, verification that we have for our actions. I truly believe that it's my responsibility to represent the views of my constituents, and this gives them a chance to make sure that I carry out that belief.

Now, within the context of the ability of a constituent to initiate an action like this, Bill 206 puts in place a number of safety checks so we don't end up with basically every constituent coming in with their own view and their own kind of opposition to the way you felt about your need to represent your constituents and initiating an action against you. Mr. Speaker, we can't have legislators here constantly under threat of recall, so this Bill, Bill

206, puts in place a series of mechanisms within its structure that protect the MLA from undue harassment. These include an open gate at the beginning, a time when we don't allow initiation of a recall. This basically gives the electorate time to settle down after an election and not let election fever carry into the first action of an MLA and bring about a recall. It also allows the MLA a chance to get a feeling for the process of government, especially a new MLA.

Then we also have a gateway at the other end where if we're getting close to the expected date of another election, we don't want to deal with kind of the cost associated with a recall process when we're already expecting to have an election in a very short period of time. What we want to do, then, is basically have these safety periods so that we don't have to deal with those. So what we've got is basically the two gates at each end that put a period in the middle where MLAs can be subject to recall. That basically is six months at the beginning and then 42 months as the closing part, because anytime after that 42nd month we can expect to see an election coming fairly soon.

We also have to look, then, at whether or not we can have a series of special-interest groups get members together and come out and initiate a recall action in a constituency where we have an MLA not acting in the interests of that special-interest group. So what we've got is a restriction within this Bill 206 that basically allows only those people who were involved in the election of the MLA, people who were on the voters list at the time of the election of that MLA, as the ones who are eligible to sign the recall petition. What we then have is a mechanism there that prevents people from moving into the constituency just so that they can help to oust an MLA. So that's a good safety provision there as well. We've got to protect both the constituency and the MLA.

Another mechanism to prevent frivolous action of this kind is the requirement that we want a very strong feeling in the community that an MLA has not served the community's interests. Bill 206 will require 40 percent of the people who were eligible to vote in the election. In other words, 40 percent of the people who were on the electoral list at the time of the most recent election must sign the petition in order to initiate a recall vote. So this means that you've got to really have done something that is unfavourable to your constituency. These are the kinds of protections that are in there. Then we go through the process that if a successful petition is held, we go into a vote which asks if the voters of the constituency would like to recall their MLA. Once that process is voted on, with a 50 percent plus one majority asking for a new election we then would have a new by-election initiated in that constituency.

4:20

In terms of the openness of the process, this Act also allows the recalled MLA the choice of running again as a candidate, which basically allows that MLA then a chance to go back, present their case, present their credentials back to the voters, and potentially become a re-elected MLA representing the group, even though the constituency felt they were not serving their needs. Basically, they, in terms of an election, were then verified that they were okay on behalf of the constituency.

Mr. Speaker, recall works in conjunction with a number of the changes that we've had in the legislative process. In the last two and a half years we've had a number of changes in the Standing Orders which really encouraged and promoted the idea of free votes. We've also had a Bill put in place to allow for freedom of information so that we can find out and look at the basis for

political action within the legislative process. When you put in place those two processes we've dealt with in this term of the Legislature, recall then becomes the next normal process that we need in the context of dealing with good, responsible, accountable government. What we've got, then, is the idea that when we come to this Legislature, we have accountability and the ability to represent our constituency.

Mr. Speaker, in conclusion, this is a very straightforward piece of legislation. It brings out to us a very high degree of commitment on behalf of us as legislators to our constituency. It allows our constituents a mechanism that they don't have and that will then allow us to really be accountable to them. This is the kind of legislation that a number of people have discussed, a number of people have thought a lot about. It's in principle the kind of thing I think we need to have so that we can go back to our constituents and say, "Yes, we're accountable." I'd just like to ask all of the members of the Legislature to support this on second reading.

Thank you.

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

MR. AMERY: Thank you, Mr. Speaker. I'm glad to have this opportunity to speak to Bill 206, the Recall Act, because this is a very contentious issue. It is contentious not because it does not meet the highest aims of all of us in this Legislative Assembly – after all, we all want to represent our constituents in the best way we can – but it is contentious because I do not believe it fulfills its high aims. What we have here is a Bill that looks really good on paper and seems to address the concerns of constituents regarding accountability and representation, yet on closer scrutiny I believe it creates far more problems than it addresses.

Mr. Speaker, from my own perspective I consider recall legislation a disruption to the parliamentary process we now operate under, disruptive in the sense that members such as myself will not be able to do our jobs if we are concerned only about potential recall petitions and making the most popular choices.

Mr. Speaker, all MLAs must do their best to ensure that the views of the constituents are served. But representation is only part of our job; the other part is leadership. We are elected to see to the good of our constituencies and to the good of the province as a whole. The basis behind representative democracy comes from logistics. Every Albertan cannot spend the time and the effort to educate themselves on every single issue of provincial concern. They elect us to do that for them and to make the decisions we believe are best. Knowing the whole story, Mr. Speaker, sometimes those decisions may not affect my constituency in a positive way.

I take as an example our government's decision to equalize education funding across the province. This decision reduced the amount of funding available for the Calgary school division, which was considered a "have" jurisdiction, but it was certainly a good decision for other jurisdictions whose students did not have the same advantages as Calgary students because they turned up short in the former funding formula. This was a difficult decision to make, Mr. Speaker, yet I felt it was for the best because it gave every student in Alberta equal access to funding and helps to ensure that all students in this province get a quality education, a result which will benefit us all in the long term.

I raise this example because if recall legislation were in place at the time the equalized funding decision was made, I could very

well have faced battling a recall petition instead of spending my time more productively on my constituents and other government business. This does not mean that MLAs can get away with not justifying their actions to their constituents, Mr. Speaker. It is extremely important for every member to get across their reasons for their decision, and if the constituents are unhappy with the long-term decision-making of their member, they have the right to turn that member out of office during the regular election process we have in Alberta. Once every four years, sometimes three years, and on occasion even as early as two and a half years voters in this province have the right and the obligation to express their views about the long-term performance of their elected representatives.

[Mr. Clegg in the Chair]

Mr. Speaker, I would like to stress again that I agree with the basic premise behind recall of making MLAs more accountable to their constituents, but I believe we have better methods of achieving this. Since the last election we as a government have proven to the people of Alberta that government can and will listen to the people and follow up on campaign promises and commitments. We have done what we set out to do, and poll after poll after poll shows how Albertans are satisfied with our performance.

Beyond that, Mr. Speaker, we as legislators have introduced laws and other parliamentary reforms which make us more accountable to the people of this province. We have shortened the time we sit in this House to allow members the chance to get back to their constituencies and speak with their constituents. We have allowed free votes on certain issues within these walls, and we have opened the doors for the introduction of private members' Bills like this one. We have legislated freedom of information, and we continue to go out of our way to ask for the views of Albertans. The recent questions we have asked Albertans to answer regarding reinvestment are a good example of this. Another private member's Bill will soon be debated in this House on the premise of citizens' initiatives. This would give Albertans the right to introduce new laws or amendments to existing laws in a direct way through use of petitions. It is these kinds of reforms which make government more accountable to the people of this province and MLAs better able to respond to the concerns of their constituency.

Recall is simply an expensive public relations exercise subject to abuse by single- or special-interest groups. Mr. Speaker, I know that the issue of abuse has been debated before, but for me it is a very real concern associated with recall legislation. On the most benign level, issues always have more than one side and more than one view. It is too easy for an MLA to make a decision and select one of those views and then have the supporters of all the other views gang up to punish the member for the selection.

4:30

On a more dangerous level, Mr. Speaker, well-organized special-interest groups could potentially use their organization to control the actions of a member with the threat of recall. This is especially worrisome in regards to the Premier and cabinet ministers, who must sometimes make very difficult and unpopular decisions for the long-term benefit of the province as a whole. Part of the image concerns about politicians is that we are seen to only make short-term choices in between elections. Recall would only add to that problem.

Mr. Speaker, the election process we have in place now is the best in the world. It is not perfect, but it is the best that we know of. It allows voters to pick a candidate whose party and personal views most closely represent the voters' views. No one can agree on every issue, regardless of the match. Any couple can tell you that. Our system allows the voter to pick a package which best suits their interests. What this means is that the voter and the member may not agree on every issue, but it is the long-term accomplishments of the member that the member is held accountable for, not one issue.

Recall legislation, Mr. Speaker, assumes that MLAs must be forced to listen to their constituents, but in my experience this is certainly not the case. In my riding of Calgary-East I request the views of my constituents all the time. I get out to meet with them as often as possible, and I have a group of advisers from my riding associations, from the business and industrial associations, from my senior citizen advisory committee, from the community association presidents advisory committee, and from the advisory committee on multicultural issues, who fill me in on a variety of concerns. I take my responsibilities as a member of this House very seriously and strive to do my job the best way I can. Like any employee my performance is subject to review, and like many employers my constituents have a legislated method of undertaking that review and letting me know how I did.

It is for these reasons, Mr. Speaker, even though I do respect and admire the Member for Lethbridge-East – and we even live in the same building – that I must speak against this Bill. It is in the best interests of everyone in this province to have responsive and accountable MLAs. I simply do not feel this type of legislation helps to further that cause.

Thank you.

THE ACTING SPEAKER: Thank you.

The hon. Member for Edmonton-Norwood.

MR. BENIUK: Thank you, Mr. Speaker. First may I say that I campaigned on recall, that I voted for the recall Bill that was placed before this House in 1993. This Bill is different from that Bill, and it's a very important difference. I believe that the concept of recall has been placed in the context of this Bill, so I'll refer to a couple of sections which are very important on the principle. It says here in 2(1) that "a voter" – one voter – can commence the action. One voter. The other Bill had a minimum number of voters that could commence it. One person alone can determine the wording, the 200 words, of why the action is taken.

Now, the significance of this is that there are some people, one individual here or there, who may be disillusioned about a particular case that a person could have had in the constituency office, and the MLA in question will be at a disadvantage of not being able to discuss that. Here we have "a" person – one person; that is very important – commencing something that then unfolds. Now, as it unfolds, that person can recruit others to help with gathering names. Anybody who has been in Alberta for six months, even after the last election, who registers with the Chief Electoral Officer – I refer to section 6 – can join in the gathering of names. What happens when all these names come together? They need 40 percent of the total electorate in the constituency to be able to force a referendum. So it's easy to commence an action. One person starts it, but for it to go through the process, 40 percent have to be gathered. In some constituencies only half the people vote. So it's easy to start, but the end result is not there. Then you have a referendum.

I would strongly suggest that more than one person should be required to start this action. For this reason – and I believe this is part of the principle that this Bill focuses on – how will recall be carried out? It's easy to start, but the end result of somebody being recalled is virtually zero.

So with that, I will yield the floor to somebody else.

THE ACTING SPEAKER: The hon. Member for Leduc.

MR. KIRKLAND: Thank you, Mr. Speaker. I'll stand in support of the recall Bill, Bill 206. In a very brief description of it, it's accountability. We as individuals in this House are accountable to our electorate, and this is simply one more step, in fact, in that line of accountability. Now, it's been argued that the final and ultimate accountable time to face the electorate is at election time, and that is supposedly fulfilling and sufficient. I would suggest this has proven not to be the case.

I can recall a federal MP that was elected in the last election in Ontario. I don't recall the exact details as to what caused the controversy, but I know that his constituents were extremely upset that he was elected on less than accurate detail. That situation and his election caused such a controversy that the constituents of that particular riding massed together and organized, had petitions signed, petitioned the Parliament of Canada to have the matter dealt with, and petitioned the Prime Minister to have this particular individual disqualified as an MP. Unfortunately, their energies were for naught. There was no mechanism to set that particular MP aside. He refused to step down. He refused to give up his seat. He continued to collect his salary. He continued to purport to be the representative of those particular constituents, the very constituents that had organized and attempted to call him home. Those constituents had demanded his resignation. Unfortunately, without a due process those constituents were stuck with that particular MP.

Now, I don't think anybody in this room would care to have somebody that is not representing their wishes or somebody that was elected on false pretenses represent them. When you publicly undertake the exercise they did and in the numbers they did to recall this individual and found themselves stuck, I think it's truly unfortunate. This Bill 206 certainly would address that, and Bill 206 has several well-defined clauses in it that would provide safeguards that the hon. Member for Calgary-East spoke of so that in fact we don't end up in a frivolous situation.

Mr. Speaker, I can think of a couple of instances in this very Assembly where the right of recall should have been available to the constituents. When I think of a couple of members that put themselves before the electorate and claimed to embrace one particular philosophy, one particular party and who, as they moved very early into their elected status, chose to forsake that particular philosophy and chose to cross the floor in this House, I would suggest that they abandoned very much the philosophy that the constituents chose them on. I would suggest that those constituents in those particular constituencies should have had the opportunity to revisit that particular decision. As I say, they abandoned the philosophy.

THE ACTING SPEAKER: A point of order.

Point of Order Questioning a Member

MR. BENIUK: Yes, Mr. Speaker. I wonder if the member would entertain a question.

THE ACTING SPEAKER: Hon. Member for Leduc, would you accept a question from the hon. Member for Edmonton-Norwood?

MR. KIRKLAND: Certainly.

THE ACTING SPEAKER: Hon. Member for Norwood, he accepts the question.

Debate Continued

MR. BENIUK: Thank you. It's very important. He mentioned a couple of members crossing the floor. When a member leaves a party because of one individual, the leader, how would that qualify under the attack he just made? The question basically is: does one person have the right to remove a person from this Chamber? That's what it comes down to, based on what he is saying.

4:40

THE ACTING SPEAKER: The hon. Member for Leduc.

MR. KIRKLAND: Yes, Mr. Speaker. One member does have the right to remove somebody from this Chamber, and I believe it's the Speaker. The examples I spoke of certainly aren't pertaining to this particular member. They were speaking of individuals that have forsaken a complete philosophy and crossed the floor.

I would suggest that the right of recall is a process and a mechanism that should have been in place so those very constituents that elected an individual can go back and revisit it. It seems to me that that's basic democracy, Mr. Speaker, and certainly I have no concern with democracy. [interjection] There's not an MLA in this House, hon. member, that should be afraid of recall. If you're doing your job and you're listening to the people and you're carrying the message of the people, you don't have a concern about recall.

Now, the Member for Calgary-East indicated he had a concern that he might have been recalled because of the equitable funding in education decision. If the hon. member had that in his heart as being a quality, sound decision, he should have no fear of standing before his constituents and selling that particular concept to those individuals. After all, Mr. Speaker, he is simply the messenger of the people, nothing more than that. If he can't carry the message of the people to this Legislature, then I daresay he does not belong here. As I indicated, it would be incumbent upon that Member for Calgary-East to have the courage to stand before his constituents and sell whatever program his government is attempting to sell at that point. He should have no fear of facing those people.

I would use another example, Mr. Speaker, that's perhaps fresh in the minds of every individual in this particular House. Two pieces of legislation that we have dealt with in the last couple of days here would illustrate how you can end up with a representative that is not worthy of being your representative. The Member for Calgary-Fish Creek brought forth a Bill dealing with child prostitution. Hypothetically, if there were a law in place that made it a criminal offence to access the services of a child prostitute and someone in this Assembly unfortunately was charged with that offence, certainly I think their constituents should have the opportunity to make a determination whether they would fulfill their term. They can say that it's a criminal offence, and they would have to be removed. We know the justice system moves at a slow pace with appeals and the likes of that, so I would ask all members . . .

MRS. FORSYTH: A point of order.

THE ACTING SPEAKER: A point of order, hon. Member for Calgary-Fish Creek.

Point of Order Clarification

MRS. FORSYTH: Mr. Speaker, I really just would like a clarification. I think it comes under 23(i). I hope he's not imputing that I was picked up and charged for doing something illegal.

MR. KIRKLAND: Certainly I have a far higher respect and opinion of that hon. member than to even suggest something like that, Mr. Speaker. It was a hypothetical situation.

Debate Continued

MR. KIRKLAND: I was asking all MLAs: if that hypothetical situation occurred and it was one of my colleagues or one of your colleagues – it matters not – would you care to carry on your term with that particular individual? I daresay not, Mr. Speaker, and I daresay that most of the constituents would make that same choice. But what choice do they have? If the individual does not resign, as the MP in Ontario refused to do, then you are stuck with them. The right of recall certainly would give that opportunity to take it back to the people, and that decision would be made. We all know the right of recall is not a simple process, and the Bill that's been brought forward by the Member for Lethbridge-East has many safeguards in it, many safeguards to ensure that in fact frivolous recalls do not begin.

Now, the Member for Edmonton-Norwood indicated that he had a concern that one person could start this particular recall. There's always one person or one individual who will start any movement. It doesn't matter if it's recall. It doesn't matter if it's the philosophy of balancing a budget within four years. Generally, that came from one idea and grew, and a group would in fact pursue it or enhance it or further it at that point. If one individual started a frivolous recall, certainly I would suggest that the ultimate test would be whether he can get enough individuals to participate, and that's covered in the Bill itself. I would suggest that's not a large concern that should have members thinking that they wouldn't support the Bill.

We have also listened in the last couple of days and heard a plea by the Member for Barrhead-Westlock on the fact that we have to make these Bills more friendly, more acceptable, and have to overcome the stigma of it coming from that side or this side and having it simply defeated on that basis. There's merit in this Bill. The Bill is accountability. I have listened for two and a half years about accountability coming from the other side over here. Constantly that particular chant comes across: let's be accountable to Albertans. This is just one more opportunity for you to be accountable to Albertans. It is a Bill that will do nobody in this particular Assembly any harm if they're doing their job properly, and there should be no fear of a right of recall Bill. I would suggest that all members should support this and not be afraid of your constituents.

Thank you.

THE ACTING SPEAKER: The hon. Member for Calgary – for Red Deer-North.

MR. DAY: Mr. Speaker, you've obviously heard the rumours that

Red Deer is looking at annexing Calgary. We're not at the stage where we've determined that. We're still considering Calgary's application, so nothing has actually been confirmed yet.

Just a few brief comments related to this Bill. In the past in this Assembly and publicly I have stated that I support the principle of recall, the main reason for that being that certainly constituents of Red Deer-North, who I represent, have in an overwhelming way said to me that they support this principle. Therefore I feel that, being their representative, I am somewhat bound to respect their wishes, and I do support this.

I do support it in principle also. One of the things we hear from the electorate is that they can be stuck with somebody – if you want to use that word – in between elections and not have the power to do anything about that, and they would like a way to address it. So in principle I am in support of recall. Should this Bill survive second reading and make it to the committee stage, I'll have some questions and things that should be addressed. I think it's a matter of concern. For instance, I realize there's a provision in here that a recall could begin as early as six months after an election. If an election were close, you would still have in the heat of the election people who, for no reason other than they just don't like the fact their guy or girl lost, would still be easily whipped up into a recall attempt. If the election were close at all, you could have somebody who was legitimately elected de-elected a short time after. I see that the Member for Lethbridge-East is signaling some acknowledgment that that could be a concern, and I'll wait for the committee stage to see what in fact his thoughts on that would be.

On possibly extending that from six months to a year – as all of us know, even as new members, there's a lot to learn on the job. At six months – for some of us six years later – we're really still getting our feet wet and trying to learn what's best and how to handle things appropriately. So I would think, without hearing arguments to the contrary, that the six-month provision may be somewhat short.

I would also like to hear some further discussion related to a provision in the Bill that says you're eligible to vote at the referendum stage on this question if you were registered in the previous election. I would want to propose some further discussion on the consideration that if you voted in the last election, that would qualify you to take part in the referendum on recall. Having that provision in place, one thing that might do is get more people out to elections in general, knowing that if the recall ever came up, they'd be excluded from voting in a recall if they didn't vote in the initial election. Of course Australia, as we know, makes it a legal requirement to vote. They have about a 97 percent turnout rate. I understand from the people who are in the gallery today from Switzerland, who I met with earlier, that there are also legal provisions and requirements. So this might be something to look at in terms of you can only vote in that referendum poll if indeed you had voted in the election that elected that candidate. I would like to entertain further discussion on that.

There should be some look at costs involved, and I'm not sure if the member proposing this addressed it. Whenever you as a citizen or as a group of citizens are proposing something to government, in this case a recall suggestion, there might be some consideration of cost or of who bears the cost of that. Should the government or should all of the taxpayers of the province have to pay for what might be some local dissatisfaction and local discontent? There are some concerns related to cost there that I'd like further discussion on should this Bill make it to the committee

stage.

Just summing up what I said, I support it in principle and always have. Acknowledging the considerable amount of interest this has engendered in my own constituency in the last two elections, maybe they have designs for me in mind. I don't know. But I have to acknowledge their request that I support this also. So I'll look forward to more discussion in the committee stage.

4:50

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

MRS. ABDURAHMAN: Thank you, Mr. Speaker. It's really gratifying to be following the Member for Red Deer-North after hearing that indeed the member supports this Bill in principle. I, too, support this Bill strongly in principle and made a commitment during the campaign prior to the last election that I fully supported recall.

One of the things that's sadly been lacking in the democratic process is some form of accountability over and above election time. In fact, I'd suggest that if we'd had a greater level of accountability for all elected officials, not only in Alberta or Canada but in the western world, if we'd had this form of recall that my hon. colleague has brought forward under Bill 206, we might not today have the financial crises that we've all had to face over the past number of years and are still trying to address.

I listened closely to what the Member for Calgary-East was stating. What struck me was that so often we as elected officials fall into a trap where we believe that we know what's best for our electorate and that people don't look at issues from the perspective of what's good for the greater good. What I was hearing suggested was that when it came to education equity funding, I don't think it was any different in Calgary-East than it was in Clover Bar-Fort Saskatchewan. Sure, people were irritated that they were going to see some funds moved into another area of the province of Alberta to give Alberta children a more fair or equitable form of funding.

I use the example, Mr. Speaker, with my constituents of when we lived in Breton, Alberta. Why shouldn't that child in Breton, Alberta, have the same opportunities, where it was possible through equitable funding, as a child in Fort Saskatchewan? When you discussed it with Albertans in that way, they realized that they had to put others before themselves. I would suggest that in Calgary-East, the electorate there also are compassionate people and that they weren't just being self-centred and that indeed they would have supported you all the way, even if there was the ability to recall you. I don't believe that Albertans are selfish people. They will do what is right, and they expect their elected official to do the same thing.

I also want to address the fact that we use polling to say that government is doing a great job. Well, yeah, in some areas the polls show that you are, but watch that you don't walk into your own trap. If you look at the polls for health and you look at the polls for education, they tell you something quite different. We all know what happened in the city of Edmonton when the polls showed a clear indication of who was going to be the mayor of the city of Edmonton. Were those polls right? Were the polls in Ontario right? So I would say: politicians, be wary if you really believe in those polls.

I would say also that the people who truly know what is going on are the very people who put us here in this Assembly, and that's why recall is so important. Why should the electorate not have an opportunity to recall if indeed their elected representative

is not doing the job, if in fact they don't hear from that elected official, if there's a lack of communication, or indeed if that elected official, as my hon. colleague from Leduc mentioned, has some encounter with the law? As we all know, you can be charged, but it takes a long time before it gets before the courts. You can also get into an appeal situation. Why shouldn't constituents have the right to recall?

While I recognize what the Member for Red Deer-North has identified, that, yes, there may be some areas within the Bill that would be strengthened if we looked at amendments, that's why we have Committee of the Whole. That's our opportunity to strengthen a principle that we can support in a Bill to ensure that it does the job it was intended to do. It's far too easy in this Assembly, whether you're on the government side or the Official Opposition side, to say, "Well, you know, this section doesn't really do it the way it should," or "I can't live with this section," and you dismiss what I would suggest is the potential for a good, sound piece of legislation.

I would say that the hon. Member for Lethbridge-East has to be commended for bringing this Bill forward. There's nothing to fear in this Bill. I have faith in Albertans that if they know their MLA is doing the best job that is possible and is communicating - I know that those Albertans don't always want you to be necessarily agreeing with each and every one of them, because you could never do your job.

I'm seeing, you know, those time-out signs, which indicates to me that certain members in this Assembly on the government side don't really take recall in a serious way. I would suggest that what the Member for Red Deer-North was stating is indeed what Albertans are wanting. They want to see principled government. They want to see principled elected officials, and if they do not remain principled, they want the ability to remove those people from public office.

So I would ask the members who at this point in time are not looking at supporting this to look at it more closely and to realize that we owe something to the electorate of this province of Alberta, and that is the ability to take to a vote whether that person should continue in office when obviously there is displeasure with the ability of that individual to represent them. Let the democratic process work once again.

Thank you, Mr. Speaker.

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

MR. HERARD: Thank you, Mr. Speaker. I rise today to speak to Bill 206, the Recall Act, as it's currently presented by the Member for Lethbridge-East. I must say that I have a great deal of respect for the Member for Lethbridge-East. In fact, I have a lot of respect for the Member for Lethbridge-West too. Maybe it's got something to do with southern Alberta and clear-thinking Albertans.

5:00

My colleague for Calgary-East spoke earlier about his concerns with the overall concept of recall. I don't share the same concerns with the concept, but I think it has to be done in a very, very serious way. I didn't see that in the arguments that we got from some of the members who were, I think, purporting to speak in favour of the hon. Member for Lethbridge-East's Bill, yet we heard some bizarre sort of reference from the hon. Member for Leduc to something with respect to the hon. Member for Edmonton-Norwood, some bizarre argument about crossing the

floor and recall and so on. I don't think that's appropriate, Mr. Speaker. Although, if recall were in place, and if in fact the hon. Member for Edmonton-Norwood's views were in place, then maybe the leader would have gone. He wouldn't have had to cross the floor; he could have stayed true to his ideological views.

[The Deputy Speaker in the Chair]

Then, we hear, "Well, you know, we need to be protected, because God forbid that any elected member should get cross threaded with the law." It seems to me that our legal system says that you are innocent until you are proven guilty, yet these people would like you recalled before you have an opportunity to defend yourself. So I don't agree with those kinds of principles. What I have to talk about are a number of principles and specifics in this Bill that I've got some problem with.

Now, when I was reading over Bill 206, I was struck by several concerns. It would seem to me that in laying out the ground rules for removing an MLA from his or her seat, the author would want to be extremely detailed. After all, this is a serious piece of business. What I did find, though, is that there's been a lack of attention to detail. That's what I found in this Bill: a great lack of attention to detail.

My first concern is over the lack of grounds upon which a petition for recall referendum may be based. I have the same concern with the legislation concerning recall that was implemented in British Columbia last year. What this says to anyone considering recall legislation is that they can create their own reason, you know, whether it's based on fact or not, and start the recall process rolling. Now, arguments can be made that restrictions should not be placed upon the electorate and their judgment of the job that their elected representative is doing, but it would seem only sensible to ensure that the MLA is not forced to spend a lot of time and effort fighting against false perceptions. It also leaves room for groups to remove a member over a single issue. Now, there are some issues at the heart of every constituency which the member must fight for, but at times and many times it's up to the members in the House to make difficult decisions on a particular issue which, while it might not be best for our own constituency, we feel is better for the province as a whole. This is the issue of leadership my colleague for Calgary-East spoke about. Because of this, members should be judged on a track record of decisions, not on one single issue alone.

Mr. Speaker, that brings me to my second concern about the lack of attention to the ground rules. Besides omitting any rules about the reasons for recall, no deterrent is built into this legislation to ensure that frivolous petitions are not made. Now, we can go as far back as 1936, when Alberta introduced Canada's first recall legislation. There was a \$200 deposit that was required to go along with this process. In 1936, you know, \$200 was a lot of money. Even today, to a lot of us \$200 is a lot of money. No mention is made at all of the idea of a deposit, even though the process, frivolous or not, could lead to great taxpayer expense.

That leads me to another point. This Bill lays out a very time-consuming and complicated process: first, a petition application is made; then the petition is circulated; then the petition successfully collects the required signatures and meets the other requirements laid out in the Bill; a referendum is called; once held and the referendum results merit it, a by-election is held. This entire process except for that of circulating and printing the petition is all at our taxpayers' expense, Mr. Speaker.

Albertans already have a democratic process in place, which

occurs at least every four years, to choose the representatives Albertans feel best represent their views. Adding this step not only complicates that simple democratic process; it could potentially add hundreds of thousands of dollars to the tax bill. That goes against every measure this government has taken to ensure cost-effective administration and representation in Alberta, measures which have made us the envy of the country and have put us at the top of the list when it comes to economic development.

Speaking of costs associated with the process of recall, no proposals have been set out regarding rules for the financing of the recall petition and referendum. In Alberta we have election laws which define the amounts of money which can be spent to influence voters, but no such rules are applied here. Neither are there any rules regarding advertising, which is again something that is a law under the Election Act. To me, the omission of these important rules creates the environment for undue influences by a particularly well-heeled group or organization, a result we have strived to reduce in Alberta to ensure that elections are fair and impartial. Shouldn't the same or similar rules apply here?

For me, concern over the influence of well-organized groups promoting a special or single interest raises its head again over the issue of canvassers in this Bill. In Bill 206 there are no prohibitions against nonvoters or even nonresidents in a constituency canvassing a recall petition. This allows voters from other jurisdictions to lend a hand in the petition process. If recall is legislated, it should be up to the voters in the constituency to promote their own reasons, not outside groups or agencies.

Speaking of the recall petition, who is able to sign that petition requesting a referendum is also a concern to me. In this Bill eligible voters are defined as those registered to vote in the election in which the MLA was elected. Mr. Speaker, things can change pretty quickly in the world of the electorate. Is the voter still able to sign the petition if they have moved out of the constituency subsequent to the general election? Are they still able to sign even if they've subsequently been convicted of a criminal offence themselves? What about residents who have come of age in between the election and the recall petition? Should they have the right to express their views? After all, they are majority members in the constituency and are impacted just as those who voted in the last election.

The question also needs to be addressed about the eligible voters who did not practise their constitutional obligation during the last general election. Some people have brought this up already. Should they have the right to get a second kick at the can? Is this sort of like allowing a driver to go back and get insurance after the accident?

I also have some legal concerns regarding the section in this Bill which outlines the offences for false or forged signatures. Rules are laid out regarding inducements to canvass for a petition, but no such restriction applies for inducements for signing the petition. If this section is also aimed only at regulating criminal activity, which is a federal jurisdiction, what are the implications of this in provincial law?

As you can see, Mr. Speaker, there are too many unanswered questions for me to support this Bill at this time. This is too serious an issue for both the citizens of this province and the members of this House, who take their jobs very seriously. At least most of them do; most who attend do. Without some serious reconsideration on behalf of the author, I have to vote against Bill 206.

Thank you.

5:10

THE DEPUTY SPEAKER: The hon. Member for Sherwood Park.

MR. COLLINGWOOD: Thank you, Mr. Speaker. I'll join the debate on Bill 206, the Recall Bill, and I'll pick up where the Member for Calgary-Egmont left off. I will agree with him entirely that Members of this Legislative Assembly on both sides are very committed to doing their job on behalf of their constituents, wherever they come from in the province of Alberta.

I think the point with Bill 206 is: what if an MLA is elected who doesn't? What if there is an individual in this Assembly who does not take their job seriously, who does not have the commitment, who does not conduct themselves appropriately? The opportunity has to exist for the constituents . . .

MR. KOWALSKI: Do the right and honourable thing, Bruce: resign.

MR. COLLINGWOOD: Mr. Speaker, the Member for Barrhead-Westlock suggests that the right and honourable thing to do would be to resign. Hon. member, I couldn't agree more. But an hon. member would not if they were conducting themselves in that capacity, so there must be a mechanism available for the constituents to have some ability to take some positive action for themselves if they find themselves in that circumstance.

We had a situation not unlike that in this Legislative Assembly in Alberta not that long ago. We had a former Premier of the province of Alberta who stood on the stairs of the Legislature and said: I'm walking out of this building, and you will never see me come back ever again. He was the Premier of the province of Alberta. There was no ability to do anything about that on behalf of the residents of Alberta. He did it at the end of his term, and it was clear that that hon. member was going to be resigning shortly thereafter, I guess in a different kind of recall, hon. members. What if that circumstance had taken place early on in a term? The member would suffer financially, but we're not talking about the member, Mr. Speaker. We're talking about the people of Alberta and the ability that they have to deal with their elected representative.

Mr. Speaker, I think all hon. members have to again appreciate that we sit in this Assembly at the privilege of those who elect us. We are here as the servants of the electorate; we are not here on our own accord. There must be a mechanism above and beyond the four- or five-year election period to allow constituents that opportunity. It's not a threat, hon. members; it's a mechanism to ensure yet again a level of accountability.

I fear that sometimes those of us in this Assembly and particularly those who have spoken against the Recall Bill out of some sense of fear and who have argued that an election every four or five years is good enough seem to forget what the real-life circumstances are of their own constituents. Many of their constituents and many of my constituents go to work every day, and they don't know whether at the end of that day they're going to have a job. They have recall in their job every single day of their lives. You know, the old joke used to be back in the days of Dome Petroleum in the late '70s that the definition of an optimist was someone who went to work at Dome Petroleum and turned their car off. That situation exists today, Mr. Speaker. There are people in our constituencies who go to work every day not knowing whether they're coming back to work the next day. Now, that's what I call recall, hon. members, yet we're looking

to soften our position and justify unto ourselves why the process that we have in place today is just fine so that we can – because there is simply no other mechanism – coast for four years, if we choose to.

Now, I said in my opening remarks, Mr. Speaker, that I agree with the Member for Calgary-Egmont that every member of this Assembly takes this job seriously, every member. But there is no mechanism to allow constituents to deal with a member of this Assembly who decides and makes a personal choice and a personal commitment not to. The Member for Leduc raised the issue of a member who is elected under potentially false pretence. What mechanism is there to deal with that? There is none. I've raised the issue of a member walking out and saying: I'm never coming back. What mechanism is there to deal with that? There is none. The mechanism that we have to deal with that is contained in Bill 206, which is the recall provision.

There has been some discussion – I think the hon. Minister of Economic Development and Tourism in question period today made some reference to the fact that in the United States, at this point in time, with the primaries going on, we're in a bit of a silly season. We're in a bit of a silly season in the United States with election fever sort of gripping the United States. Well, Mr. Speaker, I think every member of this Assembly will accept and acknowledge that at any time in an election, whether it be in Alberta or in the United States, wherever there is a democratic election going on, silly season kicks in. I think it's a fair comment to say that your actions and your campaigning and your attempt to sell yourself creates some sense of silly season with silly things being done, like the Member of Parliament who got himself elected under false pretence.

So what about a mechanism where the constituents can judge the elected representative, not in the heat of silly season leading up to the election but in the cold light of day, hard at work? That's what the Recall Bill does. It does not simply leave the process to the time of the election with the campaigning and so on that goes on, but it actually gives them an opportunity to see how their individual member is responding. I am not concerned, Mr. Speaker, as some hon. members who have indicated that they're concerned that they may suffer the consequences of a particular decision. I'm not so sure that it's the decision, and I think other members spoke to this. We can justify ourselves to our constituents in terms of the decisions we make. I think it's in terms of a recognition of the commitment to the constituents and a recognition in terms of the conduct.

One other example ran through my mind as I listened to the debate from Calgary-East and Calgary-Egmont. Any hon. members who are parts of boards of directors of companies: you don't get four years, hon. members; you get one. At the annual meeting of the shareholders they can decide whether to punt you right there on the spot or whether to allow you to continue. You're accountable every year. Well, why is that not good enough for us, hon. members? Why can't we be accountable on an ongoing basis rather than saying: I got myself elected; now I'm good until the next election? Stand up and accept the accountability and the responsibility by providing your constituents with this tool. It's another thing I think we forget, Mr. Speaker: Bill 206 is not for our benefit; Bill 206 is for the benefit of our constituents.

There is a balance in Bill 206 that is often very difficult to define. We have created a mechanism and a process whereby 40 percent of the electorate must petition for the recall to occur. Mr. Speaker, I think we have had elections in this province where we

don't get 40 percent turnout in the entire general election. So the number, while necessarily high enough to be effective, is a proper balance between high enough to be effective and being unreachable. So I think that's fine. I'm happy to live with a petition of 40 percent of the voters to actually move it to the next step of the referendum.

I did note, Mr. Speaker, that in section 10, where the question would be "Do you wish to recall [so and so], Member of the Legislative Assembly?" for myself I might change that wording because I don't know if enough of our electorate understand the whole concept of recall. It may require some further explanation than that.

5:20

The mechanism and the process that's been set out in Bill 206 does the job that's necessary to provide constituents with a vehicle and a mechanism and a tool and is a proper balance between our accountability in this Legislative Assembly and their ability and opportunity and right to be able to recall us if circumstances are such that recall is appropriate. I think that as members of this Assembly we are obligated to provide to our constituents, when the opportunity arises, these kinds of tools for accountability. We have that opportunity before us here today in the Assembly, and I would encourage all members to give this tool to your constituents and let them decide how you perform in the Legislature.

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

MR. PHAM: Thank you, Mr. Speaker. I did not intend to speak on this Bill, but after listening to many speeches from the Liberals, I feel that I have to speak on this Bill. I'm going to vote against it.

The reason for that is totally different than all of the speakers you have heard so far. The reason I want to speak against the Bill is because I want to protect the opposition party. [interjections] I truly believe that in Alberta we need to have a strong opposition party. [interjections] If you look at the history – no, this is serious. This is serious.

If you look at the history of Alberta, this is the province that has not been very kind to opposition since day number 1. We haven't got many strong opposition parties in Alberta today. As we are speaking, the Liberals are standing at 19 percent in the polls. If we have the Recall Bill, I don't think there would be anybody left on that side of the House. Can you imagine what the House would be, what the Legislature would be? Therefore, I think that even though once in a while it may take two years for the other side to come up with any intelligent idea or any concrete idea to criticize the government, we still need them there as the watchdog.

You know, that is the reason why I think a Bill like this is very, very dangerous in this province. The day we pass it, that is the day that we put an end to opposition parties in Alberta, and I don't think we can afford that. Regardless . . .

THE DEPUTY SPEAKER: The hon. Member for Clover Bar-Fort Saskatchewan is rising on a point of order.

Point of Order Questioning a Member

MRS. ABDURAHMAN: Yes. I was wondering if the member would take a question.

THE DEPUTY SPEAKER: The hon. member is reminded that you only have to say yes or no, and you don't have to give a reason.

MR. PHAM: No, Mr. Speaker. The time is running out, and I have been waiting long enough to have my chance.

Debate Continued

MR. PHAM: Mr. Speaker, the point that is raised in here is that we need 40 percent to recall any member, to present a petition, and the question will be put on whether we can recall that member or not. Just imagine. At 19 percent in the polls all of you over there would be subject to recall. In another simple arithmetic, 100 percent minus 19 percent gives you 81 percent of the people against you out there at any point in time. Can you imagine that you could survive that kind of vote? I don't think so.

I don't even know why you are asking for a Bill like this. I have serious trouble asking myself for the last half an hour: why is it that they want a Bill like this at all? To tell you the truth, even though I am not a Liberal, I still have a weak point in my heart for a good opposition party. I'm hoping that someday you will become a stronger and better party. That day may never come, but you cannot stop somebody from dreaming and hoping, you know.

MRS. ABDURAHMAN: Keep talking; keep insulting us.

MR. PHAM: No, no, I'm not insulting her. I'm just telling the truth. Stop and think about it for a minute.

Anyway, Mr. Speaker, I would like to adjourn debate at this moment.

THE DEPUTY SPEAKER: The hon. Member for Calgary-Montrose has moved that we adjourn debate at this time. All those in favour of that motion, please say aye.

SOME HON. MEMBERS: Aye.

THE DEPUTY SPEAKER: Opposed, please say no.

SOME HON. MEMBERS: No.

THE DEPUTY SPEAKER: Carried.

The hon. Deputy Government House Leader.

MR. EVANS: Mr. Speaker, it looks like everybody's leaving before I even move, but I would now like to move that we call it 5:30 and that when we reassemble at 8 this evening, we do so with subcommittee of supply D here in the Assembly to deal with the estimates of the Department of Energy and subcommittee B in room 512 of this building to review the estimates of the Department of Community Development.

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

SOME HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed?

SOME HON. MEMBERS: No.

THE DEPUTY SPEAKER: Carried.

[The Assembly adjourned at 5:27 p.m.]