

Legislative Assembly of Alberta

Title: Monday, April 1, 1996 **8:00 p.m.**
Date: 96/04/01

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

[Mr. Tannas in the Chair]

Bill 5 Racing Corporation Act

THE CHAIRMAN: I'd call the committee to order. The Committee of the Whole has under consideration Bill 5, and we have before us amendment A7, as proposed by the hon. Member for Edmonton-Rutherford and as moved by the hon. Member for Sherwood Park.

MR. WICKMAN: To continue debate from the adjournment earlier today, the strategy on Bill 5 – these are a whole bunch of subamendments that are part of the amendment that was called amendment 9. It was all broken down. So we're down to the last two so-called subamendments, and those subamendments become quite meaningless in view of the fact that the other ones have been defeated.

MRS. SOETAERT: No.

MR. WICKMAN: They defeated them; that's the bad news, Colleen. The good news was that we did get some amendments approved by Steve West earlier. That's the good news. The bad news is that these additional amendments have not been approved.

So I'm going to wrap up on the amendment that we're dealing with now. We're going to the other subamendment very quickly, and then after that I have just one more amendment that other members of this caucus may want to speak on, which I'll hand out now so everybody has their paperwork on time.

So on that amendment that we had the – Mr. Chairman, it's called amendment (f); is it not?

THE CHAIRMAN: We have A7. That's the repeal of the subsection (2)(d).

MR. WICKMAN: Yeah. A7.

THE CHAIRMAN: Amendment A7; that's right.

MR. WICKMAN: Yeah. Okay. We debated A7 this afternoon. I'm prepared to call the question on A7, and then we can go to A8.

[Motion on amendment A7 lost]

THE CHAIRMAN: Hon. Member for Edmonton-Rutherford, would you move A8?

MR. WICKMAN: I'll move the last subamendment under the amendment classified as 9. The one we're dealing with specifically is amendment A8, and in this amendment, to tie it in, Mr. Chairman, quite frankly with amendments (e), (d), and that – we proposed setting up a whole new system of appointing these particular directors to the corporation. Again, we simply move the amendment to get it on the record that this is what we'd like to have seen, but this amendment becomes fairly redundant in

view of the fact that the seven above it have been defeated. So I don't see any purpose in debating A8.

THE CHAIRMAN: So you're withdrawing it, sir?

MR. WICKMAN: No, no, no. We want it on the record.

THE CHAIRMAN: Okay.

[Motion on amendment A8 lost]

THE CHAIRMAN: We have hopefully circulating about the building the next amendment, A9. Is everybody comfortable having received it?

AN HON. MEMBER: Question.

THE CHAIRMAN: Okay. Well, we'll have the proposer first. He has to move it before we can question it.

MR. WICKMAN: Mr. Chairman, I move the amendment that's presented, classified as amendment 8. We'll have to change that to amendment A9. This particular amendment is going to generate a fair amount of discussion or debate as compared to the earlier subamendment we just dealt with. This particular amendment makes it very clear that a person who contravenes this Act is guilty of an offence.

From our study of the Bill as presented by the minister, we didn't see any reference in there that a person contravening the Act was guilty of any type of offence. Now, it could be argued that there are other types of natural law that take precedence that would in fact ensure that that person is guilty of some type of crime if he commits an offence. However, in a lot of pieces of legislation it's spelled out very specifically in legislation, bylaws, whatever: one that contravenes this particular bylaw or contravenes this particular piece of legislation is guilty of an offence and is liable to punishment of a fine or a period of time in jail, whatever. But this particular one, Mr. Chairman, makes no reference to a person who contravenes this Act being guilty. Because we are setting up a nonprofit corporation of five persons who appoint themselves to the board, these persons are going to have a great deal of power. There's been a great deal of authority passed on to this particular corporation.

The horse racing industry in Alberta is a well-respected industry by and large. There have been occasions when there have been offences occur, where persons, owners, trainers, whatever, have been found guilty of offences, trying to rig races to their advantage by doping their horses, whatever the situation may be. Now with government basically out of any regulation in terms of the horse racing industry and allowing the horse racing industry to regulate itself, we have to be more and more cautious. If anything, there is solid argument as to why now it becomes necessary to spell out very clearly that anyone who does contravene this particular Act once it's proclaimed is guilty of an offence. Possibly it should even go a step further than our amendment and should spell out that one who is found guilty of an offence is subject to a penalty of whatever may be deemed to be necessary.

Now, I'm sure the minister is going to take the opportunity to rationalize as to why it was not included in the Bill, as to what other laws he sees are going to be applicable, where those that do contravene the Act will in some other fashion be found guilty of committing an offence.

So on that note, I'll conclude my thoughts on this amendment

for now, let the minister respond, and let other members of our caucus here who want to talk specifically to this amendment talk to this amendment.

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

MS LEIBOVICI: Thank you. It gives me great pleasure to rise again this evening to talk to this particular amendment. Given the amendments that we put forward this afternoon and that were voted down by the government, I think it's even more imperative that this amendment be looked at very seriously and that consideration be given for this particular amendment to pass.

What we have in front of us is a Bill that not only looks at setting up a corporation but sets up a corporation with a board of directors who get to self-perpetuate, and we talked at length about that this afternoon. You know, even in looking at those sections in the Act, there were certain items that were not brought up in the debate, and those items deal with the fact that a quorum of the board is three members of the board. So you don't even need a majority of the board to be a quorum. I can't think of any organization that doesn't have a majority of the members to constitute a quorum, yet in this particular board it's okay. It's okay for that to happen.

The other thing that you see happen within this particular corporation is the fact that there is no staging in terms of how people come onto the board, whether it's one year, two years, or three years. In fact, the board itself decides what the term of office is, whether that term of office is going to be three years or less. There are no bylaws required for this board. Three members of a seven-man board can decide what the bylaws are going to be.

Given that, when we look at the amendment that's been proposed, which says that "a person who contravenes this Act" should be considered "guilty of an offence," it seems to compound it even more. Why would we not consider anyone who's guilty of contravening something in this Act to be guilty of an offence? It just doesn't make sense, especially when we're dealing with an activity such as horse racing, which is gambling. There should be some consequences for an individual who contravenes the Act.

8:10

Now, we have the minister of social services, who's quite fond of talking of tough love, and that means that there are some consequences to an action, but here we have the Racing Corporation Act, and if an individual is found to contravene the Act, there's no offence. There's absolutely no offence. How does that make sense? It doesn't make sense. It doesn't make sense for any thinking person that there should be no penalties if there's a contravention of the Act.

With regards to the human rights Act we have penalties if it's a vexatious complaint. We've had penalties in other departments, yet just because this is an arm's-length corporation that is being set up, there should be no penalties.

What makes it even more dangerous that there are no penalties for a contravention of the Act is that the board of directors has absolutely no or very little accountability to anyone other than themselves, other than their own seven members and that they in turn select themselves. So they select themselves, they set their own rules, there are no bylaws that are required, there's no need for a majority of the members to constitute a quorum, and then there are no penalties if there's an offence that's created as a result of the Act.

So what we're setting up is I think an extremely dangerous situation where a corporation has absolutely no accountability to anyone other than a small group of individuals. This corporation will be able to determine the kind of racing that we will see in this province, will be able to determine whether there is going to be offtrack racing within this province, will be able to determine whether or not racing will occur, as I indicated earlier this afternoon, on a TV station set up for racing, will be able to indicate whether there is going to be computer capability to engage in racing. Again, for all those backbenchers who waxed eloquent in terms of morality, I fail to understand how they can allow a corporation such as this to go through and not allow for any accountability. That also doesn't make a lot of sense.

The clauses and the way they're worded with regards to the appointment of the board can only beg the question: why? Why would the minister wish to have a board set up in this particular fashion? Unfortunately I don't have the answers for that. There are very good reasons for this not to be set up the way it is set up. As I mentioned, it's the issue of quorum. As I mentioned, it's the issue of self-perpetuation. As I mentioned, it's the ludicrousness that four out of a seven-member board could actually have their terms end and the three remaining members could decide whether those four are going to be reappointed, whether they're going to bring in four other new members.

I don't think anyone in this Assembly has ever heard of an association that's set up this way. That's exactly the way it's written in these particular bylaws. If I'm reading it wrong, perhaps the minister can allay my concerns and those of other people who are going to be looking at this. All one has to do is look at the way this is set up, and then all one has to do is go to section 20 and see that it says here that "any contravention of or failure to comply . . . does not constitute an offence." It doesn't constitute an offence, and that I think is a real reason for this particular Act to be rejected.

With those comments I will take my place. Thank you.

THE CHAIRMAN: The hon. Member for Leduc.

MR. KIRKLAND: Thank you, Mr. Chairman. I stand in support of amendment A9. I read the existing clause indicating that "failure to comply with this Act by a person does not constitute an offence." Now, that certainly is a wide-open clause as I view it, and it would strike me as almost being absurd when I look at the previous clauses in this Bill 5. I look at section 14, for example, where we speak at length about different sorts of activities that have to be licensed in the horse racing industry. We talk about some of the powers that we bestow upon the officials associated with the horse racing industry, such as inspections of barns and racehorses near the track, the likes of that. They can inspect offtrack wagering facilities. I try to apply that to section 20, to indicate that we've gone through all this rigmarole to make sure that everyone in fact is licensed and all the inspections are done and all the offtrack betting and wagering facilities are supposedly up to a standard benchmark that has been established, yet the way I read section 20, if nobody complies, it can be viewed as not a contravention of the Act. So it strikes me that the whole Act really is a waste of paper quite frankly if in fact we're not going to clearly define what is a contravention of the Act and what isn't.

As I say, there are consequences for all sorts of actions when you look through it, but so what? If in fact the commission board of the day decides that it's not a contravention, then nothing

becomes of it. If some individual, if I could use the extreme, is guilty of doping horses on a continuing and repetitive basis, as I read this, it's not necessarily a contravention of the Act.

MR. BRUSEKER: What if they just doped cabinet ministers?

MR. KIRKLAND: Well, yeah, we see that quite often, hon. Member for Calgary-North West.

But it does strike me that that particular clause takes this whole Bill and renders it somewhat useless quite frankly, Mr. Chairman. We go through the process and the pains of outlining appeal processes, and we go through the pains, as I indicated, of setting out inspections and setting out benchmarks for offtrack wagering, but for what? If in fact those individuals don't want to live up to those expectations of this particular Act, it's not a contravention of the Act, and to me, as I indicated in my opening comments, that is absurd. We've listened time in and time out about the fact that Albertans have to be accountable for their consequences. This would be an anomaly somewhere along the line, that the members are contravening sections set down in a piece of legislation that we as legislators in this particular Assembly passed, and in spite of the fact that it gets authorization of this authority, there are individuals here that say their authority is greater than ours and there are no consequences associated with contravention of the Act.

Mr. Chairman, I stand in support of amendment A9. I would ask all to think of it in the context of why go through the whole process if in fact there are no consequences to this Bill? Why go through the whole process if in fact you can contravene everything that's written in this particular Bill 5 and not have to be accountable? It does not constitute an offence; there's no accountability. The horse racing industry has an unsavoury side associated with it. I'm sure that particular side of the industry would love to see this Act there.

Just on a commonsense basis, Mr. Chairman, I find it untenable to even think about supporting a clause in a Bill that usurps all the previous clauses in that Bill and, I would suggest, usurps the power of this particular Assembly as well.

Thank you.

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

MR. BRUSEKER: Thank you, Mr. Chairman. Just speaking briefly to this amendment. As I look at the amendment, it seems to me that what the amendment would propose to do in fact would clarify section 20 by saying that "a person who contravenes this Act is guilty of an offence," because when one looks at the balance of section 20(2) and then you look at (c), (d), and (e), those sections then proceed to outline penalties that might be invoked upon a person who has in some way breached a portion of the Act.

Now, to have a piece of legislation that currently reads, "Failure to comply with this Act . . . does not constitute an offence," and then in subsequent parts of that subsection to outline what penalties there are seems to be contradictory. So to put in this amendment that says, "Yes, if you contravene this Act, that is an offence," and then to list what penalties there are, it seems to me that it would clarify this intention or this section of the piece of legislation.

8:20

Mr. Chairman, other persons before me that have spoken to this have raised the point. In reviewing my own copy of the Bill,

when I looked at section 20(1), that this amendment proposes, one of the things I wrote in the margin of the Bill was: why bother? Why bother having a piece of legislation that proposes to list a whole variety of guidelines and commitments and restrictions, et cetera, et cetera, and then say, "But if you don't follow it, it doesn't matter anyhow"?

Mr. Chairman, one of the things that each of us has to learn as parents is the concept that it's important to follow through when one is working with one's children in terms of raising them to be the upstanding citizens we want them to be. So to have an empty threat, which is in effect what the Bill will be if we don't put this in, and say: "Well, here is an Act. We're going to call it the Racing Corporation Act, and we're going to have all of this different stuff that supposedly outlines guidelines" – then we get to section 20(1), as it currently reads, that says, "If you don't follow the rules, no problem." It begs the question: why are we even bothering to write such a piece of legislation?

Mr. Chairman, I support the amendment as proposed by the Member for Edmonton-Rutherford. I think it gives more credence to the legislation. I think it adds to the minister's Bill, and I'm sure he will be more than willing to accept it in the light that it is offered, which is an attempt to tighten up and improve the business of horse racing in the province of Alberta under the proposed Racing Corporation Act.

If, indeed, the minister feels that it is not the case, I would certainly be interested in hearing his arguments as to why this amendment is not an improvement. It seems to me that it clarifies what the intention of the legislation is. I would say that the amendment also gives more credibility to the board, to the corporation that is proposed to be created in that there is some real power behind that board, much in the same fashion as we give power to police services across this province and indeed across the nation to uphold varieties of pieces of legislation. If we introduce and pass and accept this amendment as proposed before us today, amendment A9, in fact it gives the corporation some moral authority to follow through with their enforcement, if you will, of the rules and regulations of legislation as put forward in this Bill 5 before us today.

So, Mr. Chairman, with those brief comments I would just say that I do support this amendment. I think it is an improvement to the Bill, and I would encourage all members to support the amendment. Thank you.

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

MS LEBOVICI: Thank you. If I can just build on the comments that I made earlier with regards to this particular amendment. What section 20(1) actually does is it puts the racing corporation above the law, because what it says is that if in fact an individual is deemed to have failed to comply or has contravened a part of the Act – and the individual who makes that decision is a racing official – it does not constitute an offence. You look at section 17(1), that talks about what some of the circumstances might be. Some of those circumstances are the health and safety of the racehorse, substance abuse.

One of those circumstances is 17(1)(d), which is that "a horse race has been conducted in a manner not authorized under the rules." In other words, the horse race has been fixed, quite frankly, is what happens there. Yet if an individual is found to have fixed a horse race, there is no offence. What could happen is that the licence might be revoked or there might be some

sanction or monetary penalty, but that monetary penalty is still not an offence. It's considered a debt to the corporation. There is absolutely no real penalty. Only if the individual then doesn't carry through on the payment of that debt can the corporation go to the Court of Queen's Bench. In reality, if a horse race is fixed, the police should be called in. There should be a criminal offence. It should not be that this Act allows for individuals to be above the law in terms of fixing races, and that's exactly what the Act says. I notice that the Chair is looking at me with a puzzled face, but all one has to do is look at 17(1) and then look at 20(1) and put the two together, and it becomes very obvious that's what that means.

The other portion that makes it even scarier – and that's why the amendment should be passed that says that there is an offence if there's a failure with this Act – is the possibility of collusion, because the racing officials are designated by the corporation. As we indicated earlier, the corporation is seven people: seven people who perpetuate themselves, seven people who decide what the horse race industry will look like in this province, seven people who have the power to make the decisions, to make rules that are not subject to the Regulations Act, that are not subject to the Financial Administration Act as well, I don't believe.

What they will do is prescribe activities, designate persons, govern the licensing of individuals, govern the fees, govern the conduct of horse races, govern the simulcast of horse racing, the operation of racetracks, govern substances that may be administered to a racehorse or may not be, the devices that might be implanted, and the list goes on. It's actually quite inclusive as to what this organization can do, and it also states of course that the Regulations Act does not apply. So again there is no method for the people of Alberta through this Legislative Assembly to vet what is going on with the racing corporation.

We have given carte blanche to a group of seven individuals – the board of directors, the corporation – to engage in wagering both on track and off track. We have given carte blanche to an organization to put themselves above the law. We have given carte blanche to an organization to self-perpetuate and ensure that there are no overseeing activities by anyone with regards to the activities that they are engaged in. This is horse racing, ladies and gentlemen. This is an industry that has in the past been rife – been rife – with all kinds of corruption, and only through the overseeing of government has horse racing become an industry that is above reproach. We are now throwing this industry back to a situation where it can become disreputable once more.

I ask all the ladies and gentlemen in this particular Assembly whether this in fact is what they wish to do, because if it is not what they wish to do, then what they need to do is look at what the provisions in this particular Act are. They are not of a nature that would provide for Albertans to have their interests protected when it comes to this particular industry.

Now, I know that the minister in question has no doubts that his draftspeople have drafted the Bill appropriately. The fact of the matter is: if the minister cannot answer the concerns that have been put forward not only by this member but by other members in this Assembly, if he cannot answer the questions in terms of the self-perpetuation of the board, if he cannot answer the issue of the fact that this Act puts the corporation above the law, if he cannot answer the fact that the officials are appointed by a self-perpetuated board and therefore may not be above reproach, then the minister will at some point in time have to answer to Albertans, who are being ill served by the racing industry.

Thank you very much.

8:30

[Motion on amendment A9 lost]

[The clauses of Bill 5 agreed to]

[Title and preamble agreed to]

THE CHAIRMAN: Shall Bill 5 be reported? Are you agreed?

SOME HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE CHAIRMAN: Carried.

Bill 6 Gaming and Liquor Act

THE CHAIRMAN: Any comments that people might wish to make, questions or amendments?

The hon. Member for St. Albert.

MR. BRACKO: Thank you, Mr. Chairman. I would like to have the amendments passed out from your desk there. Then I'll carry on once everyone gets the amendments.

THE CHAIRMAN: Okay. We'll just take a moment while those are passed out.

While those are being handed out, the Chair would remind all hon. members that we already have under consideration an amendment as moved by the minister, the amendment known as A1. The last day that this was discussed, amendment A1, the hon. Member for Sherwood Park had been speaking.

So to amendment A1 that is before us, and then we can get to yours.

MR. BRACKO: Thank you, Mr. Chairman. Looking at sections 58 and 135 that have been amended by the minister, there was no explanation given except that it's just housekeeping. Looking at 58: what is the difference between having committee and substituting for it "board"? Are there any consequences? What differences will it make? We asked for that explanation; it wasn't given.

Section 135. The amendment does give more powers to the municipalities to set up certain gaming items. However, there is concern out there. Every week you hear of new groups, new frauds out there collecting money for some fund-raising activity. When it was under one jurisdiction, it was easier to control, to see what's happening out there. Now with so many groups out there, there'll be different people trying to defraud the public of money and will be giving these honest organizations a bad name. If people get ripped off once or twice, they're going to stop giving to organizations. I know it happened at our place. Someone came and tried to get money. As soon as my wife asked what the phone number was, what group they were with, they left. This type of thing is happening on a regular basis. Of course, where do they go? Many times to areas where there are a lot of seniors, who may not question them. So I need to know what safeguards the minister would be taking to fight that problem, to make sure there's communication between the different municipalities, as

they're been downloaded, for raffles under \$10,000. Are the police going to co-ordinate certain things so that there's a public awareness of it? I would like some answers or an explanation from the minister on that.

DR. WEST: Well, in reference to the raffles under \$10,000, of course this has been an ongoing complaint by all charitable groups, that the due process of applying for a licence and then waiting 10 to 14 days to six weeks to get a licence to raffle off a basket of fruit, say, at a hockey game or jackets or whatever it was, it was a long waiting period, and it was a lot of due process. They said that raffles under \$10,000, if they could be handled locally – at first, I know they wanted to put them through municipalities and their town offices or places like that. We decided on the registries because we're moving in that direction – this is a very efficient model, registries – that they could be served there.

Now, the protection that comes in is: the gaming control branch will still request that after the raffle is over, they keep full documentation of that if there are any public complaints, or if there is required a periodic scrutiny, they will have a full audit done periodically throughout the province. But that doesn't mean that every afghan that's raffled in the province – if there's no public complaint and it's been in a charitable faith, we're not going to go out with a whole group of inspectors and audit teams to look at all these raffles under \$10,000. I think anybody that lives in a municipality knows that the majority, 99 percent, of these raffles are done up front, honestly, and these groups don't need to be burdened down with a great deal of paperwork. Before, somebody had to phone into Edmonton or get an application and file it, and then they were told, "Well, we can't get you this for six weeks or four weeks." That will be all gone by the wayside. You can immediately get a licence; you can start your raffle tomorrow morning.

[Motion on amendment A1 carried]

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

MR. BRACKO: Thank you, Mr. Chairman. I would propose the following amendments to Bill 6. First of all, section 8 is to be amended by adding the following after subsection (4), which would become subsection (5):

Despite subsection (1), no member may be appointed to the board unless the appointment has been first . . .

AN HON. MEMBER: Point of order.

THE CHAIRMAN: Rising on a point of order or a point of clarification?

Point of Order

Voting on Amendments

DR. WEST: No. On a procedural matter. Could we have a determination to perhaps deal with these as a group, a discussion which will take a considerable length of time, where you can go from one amendment to another and then vote on them as a package? Could we perhaps have an understanding?

THE CHAIRMAN: St. Albert on the point.

MR. BRACKO: I'd like to proceed one at a time. I did actually, Mr. Chairman, give the amendments to the minister about a week

ago and asked for his feedback, said that I'd co-operate in any way I could. I did that in good faith. So we're going to go through them. We're not going to drag it out, if that's the concern.

8:40

THE CHAIRMAN: If I understand you correctly, then, as the mover of all of these amendments you wish to go with them one at a time. We'll just have to remember that capital letter A on your item is in fact by ours capital letter A2, and then everything else will be 3, 4, 5, 6, and so on, the letter A just standing for "amendment."

MRS. BLACK: Mr. Chairman, just to follow up on the request by the hon. minister, I'm wondering if the hon. member opposite would consider at least grouping together those that simply have word changes: by striking out "may" and substituting "shall." Those are somewhat common requests, and I'm sure that the debate will focus around the definition of "may" and "shall." Maybe those could be grouped together instead of individually handled to help the evening progress and have the ability for more members to get into debate on Bills.

I noticed also that there were other amendments that were similar that maybe could be dealt with in the same fashion as they pertain to being gazetted, a request there that maybe those sections could go together to move the process forward.

THE CHAIRMAN: Hon. member, if one follows the reasoning of the Deputy Government House Leader, C, D, and E would fall under that category. When we get to them we could consider those three together, and if there are others that spring to mind that easily fit in with each other, then we would effect that economy. Is that agreeable, hon. member?

MR. BRACKO: Yes.

Debate Continued

THE CHAIRMAN: Okay. So let us then proceed with A2, which is your capital letter A, having just approved A1.

MR. BRACKO: Thank you, Mr. Chairman. I'll start again. Section 8 is amended by adding the following after subsection (4):

(5) Despite subsection (1), no member may be appointed to the board unless the appointment has been first approved by the Legislative Assembly of Alberta.

Speaking to that, Mr. Chairman. We're looking at the democratic process, the process where we are elected here to make decisions, decisions that are the best for all Albertans. We believe that it's a legitimate process to have board members approved by this Legislative Assembly, not approved by just Executive Council. It should come here and we can discuss it if need be and move forward.

As we're moving into the 21st century and democracy is very important, we want the public, Albertans, to feel part of that process, to take an ownership of it. The more we delegate these things out, the farther away we take the common citizen, the ordinary person, the ordinary Albertan, from the democratic process. It's important we keep them involved, have them able to discuss, look at things. We know that we've done this with the budget. All Albertans are more aware of what's happening with the budget. They're more knowledgeable, more informed. We want to carry that a step forward with the Bills with the appointment of committees.

As I travel around the province, I've heard many times from Albertans – I don't always ask what party – that they want members on a committee that are the best people for that committee. They say that too often it's been political patronage, no matter what level it is – federal, provincial, or municipal – that instead of getting the best people to do it, it's someone who is paid back for support. This, again, takes Albertans from trusting the system, from being involved. They say, "I have no opportunity to change it."

It's in the public interest that we do bring it here, take it through. It also makes everyone look better. We don't want to isolate people. We want democracy to evolve more, to be closer to the people, more involvement, and we realize that with technology today, it can be at the fingertips of every Albertan what's happening in this House. We're not at that stage yet, but we'll hopefully be moving in that direction.

We debated recall here, Mr. Chairman, and that takes it closer to the people. People rejected it, people who do call themselves – now they're calling themselves conformers, and we see that instead of moving closer to the people, they're moving farther away.

So with that, I would take my place.

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

MR. WICKMAN: Thank you, Mr. Chairman. I just want to make a few comments on this particular amendment we're dealing with. I'm going to try and keep it fairly specific to this amendment. As we look at this particular amendment and the other amendments we'll be dealing with, we've got to bear in mind that these members that will be appointed to this board will have a great deal of authority, a great deal of power. Government is transferring a fair degree of its authority to this particular commission, and while there are some positives to the Bill – the streamlining, the saving of money, and so on and so forth – the delegation of the control that the government has previously held over the sale of liquor, we're talking gaming, where we talk about the VLTs, we're talking about a commission that has a great deal of responsibility, a great area of jurisdiction. So it becomes very, very important that when we look at these amendments – they're being proposed for one reason, and that is to strengthen this Bill, make this Bill a better Bill, make it a Bill that is acceptable to both sides of the House.

Quite frankly, Mr. Chairman, I'm surprised that the minister didn't follow the lead on Bill 6 like he did on Bill 5. Going through all these amendments, 22 of them, whatever, however many there are, there's got to be a few of them that the minister would look at and say: "Yes, I can live with that. I can live with that one. I don't like that one," and then go to the Member for St. Albert and try to negotiate a compromise that is acceptable to the government and is more acceptable to this side of the House as well to make it a better Bill than it is in its present form. If that were done, there would be no need to go through all this debate. So I just urge the minister responsible to give that some consideration. Go through all of these and see which ones are acceptable, because my colleague from St. Albert is a very reasonable person to negotiate with, to compromise with, to deal with.

On that note, I'll conclude so that the Member for Leduc can speak.

THE CHAIRMAN: The hon. Member for Leduc.

MR. KIRKLAND: Thank you, Mr. Chairman. Just a very brief comment. I know we'd like to move along with business. I would stand and support the amendment in spirit. When I look at it, though I do think it could be a bit cumbersome to actually approve somebody in this House for a position, the intent as I see it and understand it is to move more towards the open competition in selection of members to the minibords and commissions on the basis of merit as opposed to by appointment. I would suggest that when we move to open competitions and selections by merit, we get the very best people for those particular jobs. As a result, most of the boards and commissions would operate at a higher level and, I would suggest, a more efficient level and certainly a level that would be more acceptable to one and all Albertans.

So in spirit I would support the amendment. I would add a caveat that perhaps it might be a bit cumbersome by attempting to approve somebody within this Chamber for a position. I would suggest and leave it with the minister that all boards and commissions should be put for open competition to select the very best Albertan for it. We have many very qualified Albertans that could add to and enhance this government considerably given the opportunity through open competition.

[Motion on amendment A2 lost]

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

MR. BRACKO: Thank you, Mr. Chairman. I'll move amendment A3, I believe with the new numbering. Section 15 is amended by renumbering it as section 15(1) and by adding the following after subsection (1):

- (2) Any rules established by the board under subsection (1) shall be Published by the board in The Alberta Gazette within 90 days of their establishment.

Mr. Chairman, this is a very straightforward amendment. It's one that should be supported by both sides of the House. It makes the information public to all Albertans so that there's the same level playing field, so that everyone knows what the rules are, so that no one is misunderstood, and also so that the government doesn't change the rules without others knowing and therefore maybe penalizing certain people. Ninety days is a reasonable amount of time to allow this to happen.

8:50

I would trust that as we move forward – and I'm not sure if the *Alberta Gazette* is now on computer, but I would trust it would be. I trust that eventually, if it isn't happening now, anybody in Alberta would have access to *Alberta Hansard* by computer so that businesses, so that companies, so that individuals from their own homes can have access to this to make things work in a much more efficient way. A tremendous amount of changes happen: rules, regulations. People need to be following up on these so that they can take advantage of it.

So I strongly support this, and I'd ask members on both sides to do the same.

MR. KIRKLAND: My usual very brief comments, Mr. Chairman, if I might. I would echo the sentiments of the hon. Member for St. Albert. This is a situation of making rules and regulations and procedures a matter of public knowledge. It captures that term I've heard from side opposite many times: open government. Open government is certainly something that we should not be afraid of. The best government is government that is conducted in the open. It is a furthering of education to all Albertans of the

rules and the procedures. That, in my view, would draw more people from their apathetic chairs to participate in the actual running and implementing of rules and procedures that are going to dictate the Gaming and Liquor Commission, which is very large and very present in the province of Alberta today.

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

MRS. SOETAERT: Thank you, Mr. Chairman. This is a very straightforward amendment that I would think everyone could easily support in this House. It virtually is letting people know what's happening. Ignorance is not an excuse nowadays if you've broken the law, so let's make it easy for people to know what is happening. Let's publish things in the *Gazette* within 90 days. That's not difficult to do. It's a very straightforward, simple amendment that probably should have been remembered the first time this Bill was drafted.

So certainly I would like to support this amendment presented by the Member for St. Albert and would encourage all members to do the same. Thank you.

[Motion on amendment A3 lost]

THE CHAIRMAN: The hon. Member for St. Albert. Now, St. Albert, this one is the one where A4 will be C, D, and E. Is that agreeable? These all have the "may," "shall".

MR. BRACKO: Yeah.

THE CHAIRMAN: Okay. Go ahead, St. Albert.

MR. BRACKO: Thank you, Mr. Chairman. I'll now move renumbered A3, A4, A5, and A6.

THE CHAIRMAN: No. We're just calling all three of those A4, which by your identification is C, D, and E?

MR. BRACKO: Okay.

DR. TAYLOR: How many more has he got, Mr. Chairman?

MR. BRACKO: They've been passed out to you, Member for Cypress-Medicine Hat.

DR. TAYLOR: How come you want to hold this up so bad?

THE CHAIRMAN: St. Albert, please continue.

MR. BRACKO: The question was asked: why do you want to hold it up? We're not holding it up. We have a responsibility to all Albertans to have the best possible Bill. I'm surprised at the member's question. We've gone through it very quickly, briefly. We didn't prolong it. He should be embarrassed by a question like that. My grade 6ers would have more intelligent questions.

Thank you. I now move A4. What this basically is saying is: from "may" to "shall." The provincial government has a responsibility to pay its bills, to follow up on the contracts it makes, to do the right thing, whether it's with the federal government, commissions, retail commissions, whether it's municipalities. If there is a contract, if there's an agreement, we believe they should be responsible to fulfill it. If it's "may," then

it can end up in the courts, and everyone loses when it's in the courts. It costs taxpayers' dollars.

We've had an example of this with the wine stores, where the Bill was brought in to take away the right of the wine stores to take this government decision to court, and that, to me, is not democratic. That's not the way things should be done. We have to be responsible, even to the municipalities. They need to know how much money is coming in from the provincial government for properties, if that is the case. So it would be the right thing to do.

It's also the legacy we leave to the next generation, to other Albertans: doing the right thing. If we try to get out of doing the right thing, then it sends a message to everyone else: if you can get away with something, then get away with it. Well, that's not what the Liberals believe. It may be what the Conservatives believe, but not the Liberals. [interjection] We believe that you should know the truth and the truth shall set you free. The member knows that. That comes from the good book.

So with that, I will conclude that we challenge the other members to support something: the responsibility of the provincial government to stand up to its obligations, to be fair. It's a waste of time and money for most people to sue the provincial government. The provincial government has unlimited funds. The average person, like the wine shops, will run out of money fast. This is a step in the right direction. We want to make the minister look good. We want to make him look better, and that's no problem for us. We want to move forward on this.

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

MRS. SOETAERT: Thank you, Mr. Chairman. I, too, would like to take the opportunity to speak . . .

THE CHAIRMAN: Hon. member, I'm sorry. Perhaps you didn't hear me. I said Edmonton-Rutherford.

MRS. SOETAERT: Oh, I'm sorry. I was so excited. Go ahead.

THE CHAIRMAN: Edmonton-Rutherford on amendment A4.

MR. WICKMAN: Well, Mr. Chairman, mine is more of a question than a spiel here. There may be some logic that the minister has for having "may" instead of "shall," but when we talk in terms of the responsibility of paying taxes and such, the only out that I can possibly see as to why it may be "may" instead of "shall" is that municipalities will normally – instead of government paying taxes, let's say property taxes on facilities they have in that municipality, they pay a grant in lieu of those taxes.

[Mr. Clegg in the Chair]

Now, it presently reads, "The Commission may each year pay to a municipality in which any of its real property is located a grant not exceeding the amount" and so on and so forth. When it says "may," I don't understand why the minister would have "may" in there. Why not just go along with these amendments presented by the Member for St. Albert and change it to "shall"? There is, I think, a legal obligation to pay those taxes. So maybe if the minister would respond to that and tell myself and the Member for St. Albert and others why it's worded in that fashion. Explain it. Come on, Steve.

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

MRS. SOETAERT: Thank you, Mr. Chairman. I, too, want to support this and also ask the minister to clarify it for me, because he was indicating there was a reason why the word is "may" instead of "shall." Truly, all it's saying is that if they have the revenue, they must pay the taxes and they must do what is expected of them. So it's a simple question as to what is the problem. Why is the word "may" used? It seems like people can sneak out of a bargain. But if the word is "shall," then they have to. Is there a reason why they should be exempt at some point in time and that's why the word "may" is in? If there is a reason to be exempt, well, what's the reason? The minister I know wants to answer my question, so hopefully he'll explain it to me. He's been at this a little while longer than I have. Maybe there's just a simple explanation why the word "may" is more acceptable to him and "shall" is more acceptable to me.

Thank you, Mr. Chairman.

9:00

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

MR. BRUSEKER: Thank you, Mr. Chairman. The amendment before us deals with changing the concept of "may" to "shall." Now, when one looks at other parts of the Bill, it is clear that the Gaming and Liquor Commission to be created by this piece of legislation has as its object – and these are listed in section 3 of the Act – "to generate revenue for the Government of Alberta."

Now, Mr. Chairman, the amendments before us basically rectify what is permissive to what is directed by changing the word "may" to the word "shall." If you or I were to go out and get a mortgage on a home, let's say, somehow I don't think that the bank would in its mortgage say: oh, you "may" pay the mortgage on the first of the month. [interjections] Just for farmers? Farmers get a special deal. I wasn't aware of that. On any mortgages that I've ever had, it's been pretty clear that thou shalt pay, and they tell exactly how many payments and how much money and when those payments will occur, whether it's weekly, monthly, whatever.

Now, the amendment before us proposes to change three sections of the Act to say that the commission shall pay from the revenue that it generates for things like taxes and duties, in one section, commissions and federal taxes in another section, and grants in lieu of taxes in yet a third section. Mr. Chairman, it's important to note that these amounts that would be paid out would be subtracted from the total amount of revenue that would be transferred to the provincial government in either, depending upon the section you're speaking of, the general revenue fund or the lottery fund.

Now, Mr. Chairman, what these amendments propose to do is to say basically that the commission, like anyone else, like you or I, who takes on an obligation is required to pay the bills that are associated with that obligation, be it a mortgage or, in this case, taxes and duties and commissions and so on. In all honesty, if someone goes into business – if you look at section 26, for example, it looks at the idea that retailers' commissions will be paid. I can well imagine how long those retailers would likely stay in business if the government came along and said: well, you know, the legislation says "may," and we've decided not to pay your commission. Quite frankly, what would end up happening, of course, is that the retailers in very short order would go out of business.

I can imagine the response on the other side of the coin from the Provincial Treasurer if one of those retailers said: you know, I just decided that I'd rather include the word "may" instead of the word "shall" in the phrase where it talks about paying income taxes, and I'll pay my income taxes when it's comfortable for me to do so. It seems to me that if the provincial government is going to talk about making payment optional, then it's got to work both ways, Mr. Chairman. So what the amendment put forward by my colleague from St. Albert proposes to do is simply say that if the commission is going to enter into an agreement with individuals, then they have a commitment and a requirement to honour the entire details, including payments under whatever.

Now, I suppose there's a possibility that the minister opposite says: well, gee, if we fall on hard times, the grant in lieu of taxes would be pretty tough to pay. On the other side of the coin, Mr. Chairman, if indeed the provincial government is falling on hard times, imagine the hard times that a municipality would also be feeling. So it might be an issue that would be of some negotiation in the future, but currently we have a provincial government that says that they've got a balanced budget, that they can live well within their means, and therefore they should be able to handle a requirement or a constraint that says that you shall pay your bills to the appropriate individuals in those sections referred to, as opposed to: maybe we're going to pay and maybe we're not going to pay, and we'll play it by ear and see how it goes and let it fall where it may.

So, Mr. Chairman, I would support the amendment put forward by my colleague from St. Albert. It proposes to simply tighten up the process of payment to individuals and to governments and to municipalities. It proposes to tighten up those payments so that they shall occur rather than being at all optional. I would say that that would be simply an honourable method by which you and I certainly do business and certainly an honourable method by which the provincial government should also be required to do business.

Thank you.

THE DEPUTY CHAIRMAN: The hon. Member for Leduc.

MR. KIRKLAND: Thank you, Mr. Chairman. A few comments if I might. Certainly when I look at "may" and "shall" – "may" being permissive and "shall" compelling – one has to follow through. I want to follow the line of questioning that the hon. Member for Spruce Grove-Sturgeon-St. Albert put forth, and that was for the minister to rise and give perhaps an example as to why "may" would be more useful or more applicable than "shall."

When I look at this situation, I look under 24(2)(c), indicating that these would be the vendors or the businesspeople that operate beverage container recycling depots in the province, and you "may pay . . . revenue" to those individuals. Also in the same line of thought, looking at 26: "The Commission may pay . . . revenue" in the case of retailers' commissions. Now, that just strikes me as being a hammer.

I could use an extreme example to try to illustrate the point as to why I would support the amendment. If I were to own a liquor store and write a letter to the editor of the *Edmonton Journal* indicating that this government was making the wrong decision moving towards their thinking in permitting the large-box grocers into the business, as I read this, if I had irritated the department at that point, they in fact could hold my commissions from sales of liquor and put me out of business. That might be an extreme

example, Mr. Chairman, but as I look at this, certainly that could happen, and I would ask the minister to explain the rationale as to why it has to be permissive as opposed to embracing the compulsive aspect of "shall."

Now, clause 28 causes me a large concern, and I think every member in this House should look at this clause very closely. Of course, the Member for Calgary-North West spoke briefly in regards to grants in lieu of taxes for municipalities: "The Commission may each year pay to a municipality . . ." It goes on to explain the minimum that it could pay. This again is very permissive, and if a municipality did not toe the line the government fed to it, then in fact they could withhold those payments that generally offset taxes on those buildings. Mr. Chairman, I think that municipalities have come under a great deal of stress from the downloading from this government and for the most part have responded admirably and shown their resilience under some very onerous conditions. This is one clause that certainly should embrace "shall" as opposed to "may."

The businesses and the municipalities certainly have to set aside their business plans and their projected operations for a year when they can't be absolutely guaranteed that their due remuneration from the provincial government is forthcoming as a result of permissive clauses. I think it puts them in a very uncomfortable and unsettling situation. So I would ask the minister to perhaps provide an explanation as to why we need "may" as opposed to "shall," particularly in regards to the municipalities. The logic of that escapes me, and I would be pleased to be enlightened by the minister on that matter.

THE DEPUTY CHAIRMAN: The hon. Member for St. Albert. *9:10*

MR. BRACKO: Thank you. Just in closing, I guess it's important that we have this changed. We saw this happen with the Alberta Municipal Financing Corporation. When the provincial government got into debt, couldn't handle their finances, they took \$300 million from this corporation that was municipalities' money, and they spent it as they saw fit. This can happen again and again.

We need to have this change in here so it will be more practical, so the municipalities can count on it, so others can count on it, so that it's right there in the Bill. Otherwise, the government can decide to take money, revenues, and do as they did with the Alberta Municipal Financing Corporation, which was wrong, which was not appropriate. Fortunately, they're restoring it this year of course under pressure from our Liberal Party as well as it being an election year.

I ask each member to support these amendments.

[Motion on amendment A4 lost]

Point of Order Admissibility of Amendments

DR. WEST: On procedure, although we're proceeding with the other amendments, I would like to have an opinion from the Chair and Counsel on N through to R, I guess it is. I don't know what numbers those have, those that refer to putting it forward to the Standing Committee on Law and Regulations.

We passed this Bill through second reading and agreed on the principles of the Bill. It seems to me that these amendments here would be found out of order if indeed they change the principle of the Bill. If it was the intention of the Bill, it would have been discussed in second reading as to the principle of the Bill to change the nature of the Bill to what is suggested in those

amendments. I would like to know. If that's the case, then these amendments would be out of order.

MR. WICKMAN: Well, Mr. Chairman, responding to what the minister has said, traditionally when we look at virtually any Bill in this House, certainly there is some discussion on the principle of the Bill or Bills during second reading stage. At times some Bills have a lot more than just one principle in the particular Bill. Even though there is no opportunity to make amendments during second reading of the Bill, it doesn't mean that the opposition necessarily agrees with the full intent of all the principles. The purpose of committee is to give opposition members in particular the opportunity of presenting amendments to that Bill so that the principles will fall in line more with the philosophy or thoughts of that particular opposition party in the method that they see they're representing their constituents.

So, Mr. Chairman, I would submit that the minister is totally incorrect in his submission and that the Member for St. Albert is doing the proper thing. He's doing the responsible thing. He's doing the thing he's elected to do.

THE DEPUTY CHAIRMAN: I don't think we're going to waste a lot of time on this proposed point of order from the Minister of Transportation and Utilities. It's a tough call on my part, but I'm willing to make it. I don't think that these amendments are in fact changing the intent of the Bill. I think it could change the process of the Bill, or it could add to the Bill, but I don't think it's changing the principle of the Bill.

DR. WEST: Mr. Chairman, I would just like to say that if this is the case, that when we make any regulations they be referred to the Standing Committee on Law and Regulations, that's a major change in due process of this House. If that's the case, with the thousands of pieces of legislation we have, then indeed we're changing the function of that committee in the Legislative Assembly.

MR. BRUSEKER: Is he challenging the Chair?

THE DEPUTY CHAIRMAN: Well, I certainly hope not.

Hon. member, I have made a decision. The amendments are certainly in order.

Debate Continued

THE DEPUTY CHAIRMAN: We have to have a mover for any more amendments. The hon. Member for Fort McMurray.

MR. BRACKO: Thank you, Mr. Chairman, for that wise decision.

AN HON. MEMBER: You don't come from Fort McMurray.

MR. BRACKO: St. Albert, greater St. Albert.

Thank you for that wise decision. Again, the amendments went through Parliamentary Counsel to make sure that they did fit. We on this side we have said we would expedite it smoothly and quickly, and the minister stands up and starts to delay it, filibustering our Bills. We will continue to expedite it smoothly and quickly so we make the wisest use of time here.

I will now move A5, that section 30(1) is amended by adding "but not later than 180 days after that fiscal year," so that section 30(1) will now read as follows – and it's there, so I won't read it.

The point we're making is that there should be a year-end fiscal report within six months or into six months of the year. That's important, that it happen. It happens in other departments; it happens everywhere else. If they can't do it in six months, they shouldn't be doing it. It's a very commonsense amendment, one that will put some dates on to make sure. If you give someone six months, they take nine or ten months. We need to make sure it's done in the proper time and it's done in a way so that all Albertans will feel it's done properly and in the right way.

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

MRS. SOETAERT: Thank you, Mr. Chairman. To me this is a very straightforward amendment that the hon. Member for St. Albert has brought forward. I mean, why wouldn't the minister like this amendment? When you think of it, we could bring into this House a question about what the commission has done and where their money is, and he could say, "It's all here, in their audited financial statements." But no. No, no, no, that might not happen, because it's not even in the Bill. Why don't they have to submit audited financial statements to the minister and "general information and remarks with regard to the administration and enforcement" and any other relevant information? This is a commission that is doing a job for this province. Why shouldn't we know what they're doing with the money? Why won't there be audited financial statements presented in this House? Why wouldn't that be a given in this Bill?

This is how things happen. This is how things get hidden, and then 50 years or 10 years or four years later we find out that millions of dollars have gone by the wayside because this government has not done its job once again. So it's a very simple, straightforward amendment, and it protects the government. We're actually helping take care of the government, and that's a darn good opposition that would do that, I must say.

AN HON. MEMBER: Why?

MRS. SOETAERT: Why? Why do we do it? You know why? Because we want to protect Albertans; that's the bottom line. We want to protect them from a government that mismanages money, so what we're doing is putting a commission in place that must be responsible. We want them to put forward their audited financial statement, put it to the minister so that we can all see it. I think as Albertans we have a right to see that, and that's my job here, to make sure that Albertans are well represented and their money is being well handled. So why wouldn't the minister and members opposite support this amendment?

Thank you very much, Mr. Chairman.

DR. WEST: I stand not to accept this amendment. This does exemplify the type of amendments that are brought forward just to harass this process of taking legislation through. The hon. member says she's up here to protect Albertans. Well, this mirrors the existing Act and mirrors Acts that have traditionally been before this House. The existing section, albeit they're reading in their interpretation, says:

The Commission must . . .

Must.

. . . as soon as practicable after the end of each fiscal year . . . provide the Minister with a report.

Then we go down to subsection (2).

The Minister must lay a copy of the report before the Legislative Assembly if it is sitting, and if it is not sitting, within 15 days after the commencement of the next sitting.

You can't lay a report before this Assembly unless we're sitting, and this government at least has put in place where we sit on specified times. It's not like the government of old used to be. We're in in October or we're in in February, and we have it targeted to the dates we can. So those are two periods of time. They're trying to make out like they're doing something that's going to protect the people of Alberta better than we are now, and that's just simply not true.

"Must, as soon as practicable": somebody defines that, because there are circumstances. In the one year-end we had recently, because of the transition with the liquor board and other gaming issues it went 15 months rather than 12 months. Therefore, if you start this sort of thing, you start cutting down on the flexibility of a business to run its operations.

So I find that this type of amendment is only here to harass the process, and it does nothing to contribute to this Bill whatsoever.

9:20

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

MR. DICKSON: Thanks, Mr. Chairman. Speaking in favour of this amendment, there were some observations I wanted to make, but first I wanted to attempt to respond to what we have just heard from the distinguished Minister of Transportation and Utilities. He suggests that those that propound this amendment would, in his words, "harass the process," and then sets out ostensibly some reasons in terms of why this amounted to harassing the process. Well, let me say this to that allegation. The fact that this may mirror a provision in the existing statute is equivalent to saying that we've made a mistake in the past; we're going to compound the mistake by not changing it now that we're opening up the statute. It's the minister who comes forward . . .

DR. WEST: Well, lawyers screw it up. Blame it on you lawyers.

MR. DICKSON: Lawyers work for clients. The Parliamentary Counsel, Legislative Counsel, work for a minister. They take your direction. The Bill . . .

DR. WEST: They've been performing this on hundreds of Bills for hundreds of years.

Chairman's Ruling Relevance

THE DEPUTY CHAIRMAN: Hon. Member for Calgary-Buffalo, I should have called the Minister of Transportation and Utilities. We are absolutely getting away from any part of the Bill. We're getting into an argument in the House on the process. The minister is accusing the opposition of whatever the word could be, but the fact is that we are here to look at amendments. Now, let's keep on that. We're not hearing a process debate tonight.

Hon. member, continue.

DR. WEST: Mr. Chairman, I would apologize to the House for my outburst. I was taught a long time ago by my father that you never argue with a fool because those looking on can't tell the difference. So I would like to acknowledge that.

Debate Continued

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

MR. DICKSON: Thanks very much, Mr. Chairman. It's interesting when we look at amendment A5, because what we see here – we've seen a Bill introduced just the other week, Bill 24, where the government deleted what we see as the second part of section 30 here. It's interesting. If there's some suggestion that this is an essential part of the Bill and ought to be included in Bills, then one might ask why in Bill 24 the government is proceeding to take it out. So it is significant.

You know, to say that “as soon as practicable after the end of each fiscal year” somehow is an adequate protection for Alberta taxpayers is absolute nonsense. Any government or any commission that can't comply within 180 days of the end of the fiscal year – 180 days – clearly is inept, incompetent, and deserves some remedial attention.

I can't possibly see how a minister of a government that talks about fiscal responsibility, that talks about charting a new course for financial accounting and transparency in financial dealings, can balk at a very modest constraint, a requirement that within 180 days after the end of a fiscal year they provide a report to the minister. You know, the report summarizes its operation. These are not particularly onerous requirements.

So it seems to me that this is a helpful amendment. It's one that clearly speaks to the greater public interest. We've seen in the past that if the government has what I'd describe as waffle room, they'll exploit it, and I don't want to have to rely on somebody's interpretation of what “as soon as practicable” means. I'd want an outside date, and 180 days for my money, frankly, is too long. I'd like to see it shorter, but it seems to me that in a spirit of compromise this has been put forward in good faith, and I'm prepared to live with 180 days. But to argue that in some fashion that's an unreasonable constraint just is not a credible assertion.

The comment had been made by the hon. minister a moment ago that this cuts down the flexibility, and here's what's interesting. He said, “the flexibility of a business.” This highlights one of the problems: government doesn't understand what a public responsibility is. This government doesn't understand that they're not running a simple business. They have a responsibility that goes beyond simply making a profit, and we see it time and time again in the government's rush to privatize a host of activities. There's a public responsibility. This isn't a regular business, and frankly I don't care about a modest constraint on the flexibility of the commission. It seems to me that there are some public expectations. We're here to assert those public expectations, and we expect that the statute is going to reflect those public expectations as well.

Those are the observations I'd make. I'd urge members to support this amendment. It's a positive one, it's a constructive one, and it in no reasonable sense impinges on the flexibility that I think the hon. minister wants to repose in the commission and the board. So let's accept this amendment and at least make some modest movement towards ensuring that the public interest is served and continues to be served after the passage of Bill 6.

Thanks, Mr. Chairman.

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

MR. BRUSEKER: Thank you, Mr. Chairman. I, too, want to add a few comments to the amendment before us, to require that the report be tabled within 180 days.

Mr. Chairman, you and I have both been here long enough that

we have seen on several occasions that even though there is a clause as we have in subsection (2) of section 30 that says the Minister must lay a copy of the report before the Legislative Assembly if it is sitting, and if it is not sitting, within 15 days after the commencement of the next sitting,

cabinet ministers come in who table various annual reports, either for their department or for authorities under their department responsibilities, and they will table two annual reports simultaneously. Quite frankly, then, what it does is that it effectively renders the older one of those two virtually useless, unless something startling comes out in that, because by the time it comes out, it is so out of date, it is so far behind as to be useless. So it then begs the question of why bother introducing that earlier annual report at all? Why bother taking the time to have staff produce and research and print that annual report when in fact it probably won't be used?

In order for information to be useful, it must be timely. Now, the hon. minister has said that “practicable,” as is the word in this section 30(1), covers it off, that that phrase requires that it be done as expeditiously as possible. Well, Mr. Chairman, obviously that has not been the case, based on our past experience in this Legislative Assembly. We see the Provincial Treasurer moving to more quickly turn around the public accounts so that instead of being virtually a year behind, they are produced within six months' time. That is a positive move. That is a step in the right direction and a commitment that I think the Treasurer should be applauded for.

9:30

Now, if the Treasurer can do that kind of a turnaround, if the Treasurer can produce all of the information contained within public accounts, that covers each and every one of the government departments as well as all of the authorities underneath the government – for example, the Alberta Opportunity Company, the Alberta Treasury Branches. We've got Alberta Intermodal. We've had Chembiomed, et cetera, et cetera. There's such a long list, Mr. Chairman, I couldn't cover them all. If the Treasurer can make that commitment to produce all of the accounts for the public accounts so that the chairman of the Public Accounts Committee, the hon. Member for Clover Bar-Fort Saskatchewan, can have those and convene her committee and if all of that can occur within six months, then for heaven's sake why is it that this commission, that will have only one small section to worry about, can't produce their report within 180 days?

Now, the minister says that you can't table a report in the Assembly if the Assembly is not sitting. Well, I must confess I certainly am glad that the minister enlightened us with that little bit of information, because boy, I thought all kinds of stuff was being tabled when I wasn't around. I'm glad he's cleared that up for us, Mr. Chairman.

If you reflect on Standing Orders, as the minister has done, you will see that we never have a hiatus of more than six months between one sitting and the next sitting, Mr. Chairman. So indeed the concern that the hon. minister has brought forward is already dealt with within the Standing Orders. It's not a concern in fact.

It says, “As soon as practicable after the end of each fiscal year.” The amendment we have before us says, “But not later than 180 days after that fiscal year.” So it says: do the research, get your numbers together, write whatever it is you're going to write in the written part of that report, and then produce it, publish it. That still does not in any way impinge upon the minister six months down the road from coming into this Legisla-

tive Assembly when the Legislature is once again sitting, either in the fall session, that is required under our Standing Orders to sit no later than October 15, or under the spring session, which under our Standing Orders is required to sit no later than February 15 and typically of course goes for the months of February, March, and here we are now getting well into April. It seems that there should be no difficulty with the minister coming forward. This does not in any way restrict the function of the commission. This does not in any way restrict the operation of the minister. In fact, all this amendment proposes to do, assuming that Bill 6 gets passed, is ask this commission, once it is created, to be as accountable as the Provincial Treasurer, as accountable as each and every one of those cabinet ministers on the front bench. Therefore, all members should support this amendment.

Thank you, Mr. Chairman.

[Motion on amendment A5 lost]

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

MR. BRACKO: Thank you, Mr. Chairman. I move amendment A6. Section 32 is amended by renumbering it as section 32(1) and adding the following after subsection (1):

Despite subsection (1), if the liquor licensee has been cancelled by the Commission and the cancellation is set aside on appeal, or a further hearing or by the Minister, an action lies against the Commission for the actual losses or special damages sustained by the licensee as a result of the cancellation of the licence.

Now, in speaking to this, Mr. Chairman, we're looking at if it's wrongly canceled, not if it's properly canceled. There is no recourse. There is no fairness for the liquor store owner or the nightclub owner or so on. This would make it more effective. This would give him a recourse.

Now, with that, I will conclude.

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

MR. WICKMAN: Thank you, Mr. Chairman. I have some difficulty in understanding why this amendment had to come forward in the sense that it should have been covered in the Bill as presented by the minister. This one is so logical that it escapes me as to why it would have escaped the minister in the first place. The purpose of the Bill, in forming this amalgamated commission, this superbody, I don't think is to make things so difficult that those that hold liquor licences are going to be unduly punished. I would stress to the minister, as he looks over this particular amendment, to attempt to find a method to incorporate it within the Bill. Again, it's one of those that is presented in such a logical fashion and there are such logical arguments for it that it escapes me why it wasn't just part of the Bill to begin with.

So, Mr. Chairman, I'll conclude by again urging the minister to do the proper thing and either approve this amendment or incorporate it in the Bill.

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

MR. DICKSON: Thanks, Mr. Chairman. We're now presented, when we deal with this amendment, with one of the most interesting paradoxes in Bill 6. You know, it's a paradox because the sponsoring minister makes such a to-do about the free market,

about private enterprise, about deregulation. He spoke a moment ago. On the last amendment he talked about his concern that we were cutting down the flexibility of a business. He's went from time to time to make business parallels and business analogies. So what happens? We now see that really at the same time this minister promotes the free enterprise system, he's quite comfortable building in a protection that's unique to civil servants. I challenge the minister to tell me another employee or officer in the private sector who has the benefit of this kind of exemption from any kind of liability. This is a kind of provision that's unique to those people that work for government. Well, Mr. Minister, you can't have it both ways. If in fact you want to remain as the paragon of private enterprise, you're going to have to recognize that you don't get all of the benefits that go with that. You don't get all of the immunities. You don't get all of the protections and liabilities. This amendment doesn't go so far as to suggest that we're eliminating all protection. All it says is: we recognize that there is an enormous interest that a liquor licensee has.

I think, firstly, I want to acknowledge that there's a typographical error in the amendment. In the first line it says – this would be subsection (2) – “Despite subsection (1), if a liquor [licence] has been cancelled.” It reads “liquor licensee,” but I understand it to mean liquor licence. If a liquor licence has been canceled and that was an error, why shouldn't that operator, why shouldn't that licensee have some kind of a claim against the commission? It doesn't matter for all circumstances; it doesn't say that for all reasons. It says that in those cases where a liquor licensee has had, through an error on the part of the commission or an agent of the commission, their licence revoked, their licence canceled, there are some remedies available.

9:40

Now, Mr. Chairman, the minister is getting particularly agitated, and I can understand why. He understands he's being caught in this paradox. He's been caught sending out two very different messages. This amendment will help to clear it up. This amendment, if it's accepted, will achieve what the minister failed to do when he drafted the Act the first time around. It will acknowledge that liquor licensees invest a great deal in one of their operations. They have a big vested interest in that, and if there's a problem on the part of the commission, the commission can't hide behind Crown immunity. They can't hide behind some kind of Crown exemption from liability.

It seems to me that this is a very modest, a very limited, a very measured way of ensuring that there's still a cause of action available to a liquor licensee if there in fact has been an improper cancellation, if there was an error made in canceling the licence. Why, possibly, would the minister resist this? If he tells us that exists for other civil servants, then I come back to him and say: what you're talking about is you want a system that has less government interference, less government regulation. So it seems to me the minister can't have it both ways.

I think the point to make as well is that this isn't exposing the commission to some unforeseen liability. All it does is allow that liquor licensee who has been the victim of some kind of an error on the part of the commission the right to go to court to make their claim, prove their damages. There's no free ticket here. There's no *carte blanche*; there's no blank cheque. They have to prove what their damages are. If they can prove actual losses, if they can show a causal link between the loss and the error on the part of the commission, then it means that the commission can't hide behind this general liability exemption. So this seems to me a very reasonable proposition.

I salute the initiative of my colleague for considering and drafting this amendment, and it'll be very interesting to see the minister's response on this one. It's clear that he really wants his cake and he wants to be able to eat it too. For the minister that I lauded, I guess this afternoon, for his philosophical consistency, I may have to take that back, Mr. Chairman. I may have to modify that and say: you know, this minister sometimes does exactly the same thing he accuses members on this side of. Sometimes the message isn't always consistent, and that clearly is what we're getting here. So I hope the minister will reconsider.

I think that of the amendments we've looked at, this may be one of the most important ones, because it speaks to the economic self-interest of those fine Alberta businesspeople that have obtained a liquor licence, are trying their best to stay in business, and they expect to be fairly treated. Why wouldn't this minister treat those businesspeople fairly? What's this minister afraid of? Why wouldn't this minister accept a modest revision to his Bill to ensure that that small businessman who has a liquor licence is going to get fair treatment? That's what this amendment is all about. That's all that this amendment stands for, and I would think that a champion of private enterprise, of free enterprise, would grab this amendment and run as far as he could with it. It would be a coup, it would be a feather in his hat if he were to take advantage of the foresight and the thoughtfulness of my colleague who proposed this particular amendment.

I expect there may be other comments and other analyses of it, but this seems to me to be an excellent amendment. I'd encourage all members, including the minister, to recognize that sometimes, you know, there are good ideas and there are ways of making a Bill like Bill 6 even fairer and even better.

Thanks very much, Mr. Chairman.

[Motion on amendment A6 lost]

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

MR. BRACKO: Thank you, Mr. Chairman. Again I rise and move amendment A7.

MR. PHAM: Okay. Now you've moved it; sit down.

MR. BRACKO: Oh. You know, it's always interesting, Mr. Chairman. The Member for Calgary-Montrose has to speak, yet he doesn't get up and speak on his feet. I challenge him to stand up, to speak up, or at least squeak up, but he doesn't seem to want to. He talks and talks and talks. Hot air.

I move A7. Section 34 is repealed, and this one deals with freedom of information. By having 34(1) and (2) in there, it protects the commission from freedom of information. This is not what Albertans want. This is not what Albertans need. This is not what Albertans expect of this government. They expect freedom of information. This minister has been a leader at times in providing freedom of information. He has been good, and I compliment him on that. But let's take it a step further. Let's lead Albertans. He's usually a straight shooter, but sometimes his shots are curving now. He's starting to be influenced by other members of his side there, and that's not acceptable. We cannot have any commission protected. We want freedom of information so that there's accountability to all Albertans, so that we know what's happening, what's going on. We can ask questions. We can get information instead of being protected by this government.

In the freedom of information there's a mechanism for confi-

dentiality of the commission where it's needed, where it's applicable, and that is well written out in the freedom of information legislation. So I ask all members to support this amendment for a better Alberta, to protect our young people, to protect the older people. Let us move forward into the 21st century and not step backwards, protecting things that shouldn't be protected so we cannot move forward.

With this, I conclude and turn it over to one of my colleagues, who I'm sure wants to comment on this.

Chairman's Ruling Decorum

THE DEPUTY CHAIRMAN: Before I call on Calgary-Buffalo, we seem to be getting a little bit noisier and noisier. If you want to visit and talk quietly, that's just fine. Hon. Member for Cypress-Medicine Hat, would you mind taking a chair, please.

The hon. Member for Calgary-Buffalo.

Debate Continued

MR. DICKSON: Thanks, Mr. Chairman. With respect to this amendment, it's interesting – the provision that's at issue here, section 34, cites, "Section 15(1)(b) of the Freedom of Information and Protection of Privacy Act." It effectively says "liquor information in the custody or under the control of the Commission is deemed to have been supplied to the Commission in confidence."

If you look at 15(1)(b) in the Act, it says that "the head of a public body must refuse" – there's no discretion here; it's a mandatory exception – "to disclose to an applicant information . . . that is supplied, explicitly or implicitly, in confidence." It's important to recognize that we're not talking about "trade secrets of a third party"; we're not talking about "commercial, financial, labour relations, scientific or technical information of a third party." We deal with the intention, and this is the constructive intention. Because we don't even know explicitly what was intended, we're simply going to say holus-bolus that liquor information is deemed to have been supplied to the commission in confidence.

Well, why would we do that, Mr. Chairman? What possible reason is there that we have to use the heavy weight of legislation to deem that this kind of information that's provided to the liquor commission is something that is being supplied in confidence? I can't see any compelling reason why that would be the case. The government, by citing section 15(1)(b), in effect is acknowledging – and we're not talking about trade secrets. We're not talking about commercial information of a third party. We're simply talking about what we might think would be the intention of a licensee. It seems to me that this is heavy-handed government lawmaking at its worst.

9:50

Now, I see we have a conference over here, Mr. Chairman. I'm heartened by that. When we see the Minister of Environmental Protection and the former chairman of the Premier's panel on freedom of information and protection of privacy, the minister responsible for the Act, the distinguished Minister of Public Works, Supply and Services, I expect that these gentlemen are going to share briefly with us their considered opinion of this amendment.

I hope they're going to be able to tell us why it's necessary to take liquor information and say that that's deemed to have been supplied in confidence. Why would we be so anxious to carve out

of public scrutiny information that, frankly, I would think would be fairly straightforward? I can think that maybe the government is concerned that competitors will get information on a liquor order. Is that what the government's concern is? It seems to me that there would be precious little commercial advantage to any licensee to know what their competitor's liquor order has been for a particular store. Liquor information is described very broadly, and it relates to the acquisition or sale of liquor. It seems to me that this is an item that would fall under the regular exceptions and exemptions in the Act. There are all kinds of protection in there. If this would relate to third-party information, there's some provision for that.

[Mr. Tannas in the Chair]

So I think there is absolutely no compelling reason why the government wouldn't embrace this thoughtful, constructive amendment. I think it's a curious thing that the government that brought in the freedom of information law after many, many years of waiting is now so anxious to start protecting and carving out of the Act a host of information, a host of types of documents and records. I just say that if in fact this amendment succeeds, then we're still left, Mr. Chairman, where under the Act each application would have to be dealt with on its own merits and we don't have this kind of a blanket waiver.

I'm sure other people want to add to this assessment. It is very disappointing that the government would bring this forward. I am hopeful that the dynamic duo of information ministers – Environmental Protection and Public Works, Supply and Services – will explain why it's not necessary to build in this kind of a blanket provision. We can simply rely on the regular terms and clauses in the Freedom of Information and Protection of Privacy Act to protect legitimate interests. We don't have to deem them in this kind of a broad-brush approach.

Thanks, Mr. Chairman.

THE CHAIRMAN: The hon. Member for Stony Plain.

MR. WOLOSHYN: Mr. Chairman, I move that we adjourn debate.

THE CHAIRMAN: The hon. Member for Stony Plain has moved that debate on Bill 6 be now adjourned. All those in favour of that motion, please say aye.

SOME HON. MEMBERS: Aye.

THE CHAIRMAN: Opposed, please say no.

SOME HON. MEMBERS: No.

THE CHAIRMAN: Carried.

The hon. Deputy Government House Leader is going to move that we report the Bill? Okay. The hon. Deputy Government House Leader has moved that progress be reported on Bill 6 when the committee rises and reports.

[Motion carried]

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

[Motion carried]

[Mr. Clegg in the Chair]

THE ACTING SPEAKER: Order. [interjections] I've got a pretty comfortable chair here, so unless we can have some order, we won't have the report for awhile. [interjections] Could we just have order so that we can hear the report.

The hon. Member for Highwood.

MR. TANNAS: Mr. Speaker, the Committee of the Whole has had under consideration certain Bills. The committee reports the following with some amendments: Bill 5. The committee reports progress on Bill 6. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

THE ACTING SPEAKER: All those in favour of the report, please say aye.

HON. MEMBERS: Aye.

THE ACTING SPEAKER: Opposed, if any? Carried.

[At 9:57 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]