

Legislative Assembly of Alberta

Title: Tuesday, April 23, 1996 8:00 p.m.
Date: 96/04/23
head: Government Bills and Orders
head: Committee of the Whole

[Mr. Clegg in the Chair]

THE DEPUTY CHAIRMAN: Would the committee come to order, please.

Bill 6 Gaming and Liquor Act

THE DEPUTY CHAIRMAN: We are debating Bill 6, and we are on amendment A7. Your sheet shows H, but we've renumbered it to A7.

The hon. Member for Sherwood Park.

MR. COLLINGWOOD: Thank you, Mr. Chairman. It seems like only moments ago I was debating Bill 6, the particular amendment, before we adjourned for our dinner hour, and as I was saying when we adjourned this afternoon, many of the public of Alberta were suspicious that the government was in fact ready, willing, and able to embrace freedom of information and protection of privacy legislation in the province. My point is that the inclusion of section 34(2) in Bill 6, the Gaming and Liquor Act, is certainly some evidence to suggest that the government was not prepared to embrace freedom of information and protection of privacy legislation in this province. The tactic, Mr. Chairman, appears to be that what the government is going to do with the freedom of information legislation that we now have in place is that it is going to undermine that legislation in various pieces of legislation that come forward.

This particular section, section 34(2), has what is generally considered one of those odious provisions that is a deeming provision, so all information that is what the government has called "liquor information" is deemed to have been given to the commission in confidence. Because of this provision it does not allow for that information to be subjected to the freedom of information and protection of privacy legislation in the process that currently exists. It is taken that it is confidential information when in fact it may not be confidential information. As my colleagues have indicated earlier today, what the legislation ought to do, Mr. Chairman, is allow the Freedom of Information and Protection of Privacy Act to work and to have the process that's in place determine whether or not information is or is not confidential. This section should not be included in this legislation so as to undermine that particular Act that is now in place.

The section relates to information in a broadly labeled definition of "liquor information." The section allows for the secrecy and the protection of liquor information which according to this section is

obtained by the Commission before, on or after the coming into force of this section relating to the Commission's acquisition or sale of liquor.

Now, Mr. Chairman, as I look at that particular definition section, it is very difficult to assess at first blush what exactly "liquor information" includes. Does it in fact include information relating to revenue from the sale of liquor or expenditures on the acquisition of sale?

Various provisions in the legislation just prior to section 34 deal with the provisions of the commission's obligations and responsibilities relative to finance. Are all of those sections where

information is imparted or gathered or becomes part of the books of the commission now deemed to be confidential, secret, and private information and unavailable to the public of Alberta?

This section, Mr. Chairman, seems to be part of an array or a series of provisions under the general provisions of this part that give significant protection to members of the commission. There is in section 32 the liability exemption.

No action lies against the Commission, the board . . . executive officer, [and so on] for anything done . . . in good faith, in relation to the exercise of their powers or to the performance of their duties under this Act.

So we have that liability protection section that is included there.

The next section, 33:

No member of the board . . . may be compelled

(a) to give testimony for the purposes of a civil action with regard to information obtained in the course of the member's or employee's duties.

Well, I guess that's liquor information; isn't it, Mr. Chairman? They do not have to "produce any document or information for the purposes of a civil action."

So those kinds of protection sections suggest that without the use of the freedom of information and protection of privacy legislation as it currently exists, nobody will know anything about the operation of this board, and heaven forbid if they ever did. The protection for these members goes on and on and on and on.

Mr. Chairman, from my perspective I stand in agreement with the amendment proposed by the Member for St. Albert in that this particular section should be repealed. Liquor information should fall under the Freedom of Information and Protection of Privacy Act just like other information of the government. What the government should do is stop telling Albertans that it is open and transparent and accountable and then continually bringing into this House legislation which undermines and goes contrary to that statement wherein the government demonstrates once again to the people of Alberta that it is secret, that information is shrouded, and that information will not be made available to the public of Alberta.

[Motion on amendment A7 lost]

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

MR. BRACKO: Thank you, Mr. Chairman. Section 65 is the next one, and it will be numbered A8, I believe. Is that correct, before we start? It's amended by adding the following after subsection (2):

(3) No liquor licensee or employee or agent of a liquor licensee may sell, offer to sell, or provide from the licensed premises any product other than liquor, including but not restricted to, cigarettes, that requires the payment of special excise taxes, unless the licensee, employee or agent has taken all steps necessary to ascertain that the taxes have been properly paid on those products.

Speaking to this amendment, again we want to make sure that all the taxes are paid, that it's a protection for Albertans, that we extend this not only to liquor products but cigarettes, other products that may be sold at those premises. This is a way to do it. It's included and it's inclusive. It would make sure that we are able to get the proper taxes from this.

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

MR. DICKSON: Thank you, Mr. Chairman. I rise to speak in

support of this particular amendment. I think that section 65 was intended – and I'll presume that the purpose of section 65, mischief, was to recognize that you have a means of control at licensed premises. This is, if you will, the last clear chance to make sure that before the liquor is removed, some fairly basic regulatory things have been satisfied.

The amendment fits in very nicely, the new subsection (3) that's proposed. It means that there has to be compliance firstly with the policies of the commission. It means that it has to meet the "regulations or stadium bylaws." It means that the licence has to enable and authorize the transaction that the liquor licensee or employer or agent is about to enter into, and it neatly ties in the matter of cigarettes to ensure that excise taxes have been paid. It seems like a good companion.

8:10

It's the appropriate place to do it in terms of the Act itself, and it's clearly the appropriate place for this amendment to be tucked in with the other requirements in section 65. This seems to me to be proactive. It seems to be a means of anticipating something that will come up. It requires no additional expenditure of tax dollars. It simply imposes that kind of a positive duty on a liquor licensee or any agent or employee of a liquor licensee, so it seems like a very modest requirement. In the interests of smooth and efficient administration of the gaming and liquor regime, this certainly would be an appropriate thing to do. So for all of those reasons I support this particular amendment to section 65 of Bill 6.

[Motion on amendment A8 lost]

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

MR. BRACKO: Thank you, Mr. Chairman. Moving on to A9, the next amendment. Section 79 is repealed and the following is substituted:

A civil enforcement agency that seizes liquor in accordance with the Civil Enforcement Act, must within 7 days of the seizure, notify the board of the availability and location of the liquor, and the board shall repurchase from the civil enforcement agency any liquor so seized at its wholesale price, provided that the liquor is properly sealed and fit to be resold.

In speaking to this amendment, Mr. Chairman, I think this is an appropriate amendment to make sure that the government recovers for the taxpayers all that is their due. If the store goes bankrupt, the government can reclaim from the civil enforcement authorities the ability to get this liquor. They can then resell it, and this way save the government money, save the taxpayers money on this.

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

MR. COLLINGWOOD: Thank you, Mr. Chairman. Speaking in favour of this particular amendment, the purpose of the legislation is to give the commission the ability and the opportunity to control the sale and distribution of liquor. While the section does give the board the authority to authorize the civil enforcement agency to sell the liquor, it would seem to make more sense to have the civil enforcement agency inform the commission of the fact that it is holding seized liquor under civil enforcement and to then arrange to return to the commission that inventory of liquor that has been seized.

To my way of thinking this will allow for a greater control

process to occur in that it would seem that in the process of resale through civil enforcement, there would have to be a certain level of inspection of the seized goods to determine whether or not resale would even be appropriate. Rather than going that route and having inspection of that inventory prior to the sale by the civil enforcement agency and putting it up for presumably auction, the recovery of the cost could go back to the commission, and it could then be inspected properly for resale.

Now, there is an aspect of this particular matter, Mr. Chairman, in that seizure will have been instructed by someone who would be a judgment creditor of that particular entity that is the, quote, owner, unquote, of that seized liquor. So in its return to the commission there has to be some consideration to the aspect or to the fact that this is an asset of a judgment creditor and that the seizing has been done in order to satisfy a judgment of that judgment creditor, and that is of course the whole process of execution under the civil enforcement provisions. Because of the steps that would have to be undertaken in any event relative to any liquor that is not going through the normal channels of distribution through the commission and ultimately to the resale of that particular licence, it would seem that the control is better regulated by return to the commission rather than sale through civil enforcement, as is currently proposed in section 79.

Thank you.

[Motion on amendment A9 lost]

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

MR. BRACKO: Thank you, Mr. Chairman. Moving on to amendment A10. Section 103(1) is amended by adding "cigarettes and other resale item upon which the proper excise taxes have not been paid as set out in Section 65(3)" after "gaming supplies". Speaking to this, if an inspector is going out and doing his search, doing his duty, he should have added authority to be able to go out and check for illegal cigarettes, other illegal items that should be taxed. This would, again, make more efficient use of his time, his energy. Instead of having someone else come in and do it, he would be able to do it efficiently, a wise use of taxpayers' dollars, so everyone benefits. It becomes a win/win situation.

We know that there is, again, the sale of illegal cigarettes right through the province. The liquor outlet is one of the best places where people do sell these illegal cigarettes maybe at a discount price, so it's important that we are proactive in this perspective, that the inspector would be allowed to check this as he goes through, to watch out for this, to keep an eye. Word gets around, and this happens.

So we ask the members on the other side to support this. It's a step in the right direction.

[Motion on amendment A10 lost]

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

MR. BRACKO: Thank you, Mr. Chairman. Amendment A11: I would like to include L and M together in this. They go together. Section 121 is amended by adding the following after subsection (2):

(3) No certificate shall be entered in a prosecution under this Act unless, not later than 10 days prior to the commencement of the trial, the prosecutor has served on the defendant a copy of the certificate of analysis and a notice of intention to utilize that certificate as evidence in the trial.

Section 122 is amended by adding the following after subsection (2):

- (3) No document may be admitted pursuant to this section unless notice by the Prosecutor of an intention to do so has been served on the defendant not later than 10 days prior to the commencement of the trial.

Mr. Chairman, speaking to these amendments. It's only fair that this would be done so that the people going to court would have the full details of what is happening, what is moving forward, and then they could proceed to maybe have a defence before it, if this is the case. So it's more to provide for fairness in court proceedings, speed up the process in this aspect.

We ask for support for these two sections.

8:20

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

We're a little crowded around here, but it's only temporary.

MR. COLLINGWOOD: Mr. Chairman, I can sort of see you to get your official nod to enter into debate on the amendments we're speaking of at this particular point in time.

Mr. Chairman, as section 121 currently reads, this section will make for – I think that many defence counsel who will be watching this issue closely will relish section 121 as it currently stands because it will be very difficult, I think, for the prosecution to make a conviction under this section stand because of what I would consider to be a clear breach of the rules of natural justice in the way section 121 is currently stated. The section, unbelievably, allows for the certificate of analysis to be accepted, and the wording is, “must be accepted as prima facie proof of the facts stated in it”. There is no ability as a fundamental principle of law in the dominion of Canada that anyone who is accused can face his accuser and can cross-examine on that evidence and on that information.

Now, what this particular section says is that the government under this particular provision is simply going to ignore the fundamental principle of law in this country and accept this certificate of analysis

as prima facie proof of the facts stated in it and of the authority of the person giving or issuing the certificate without proof of the appointment or signature of the analyst.

Not a hope, Mr. Chairman, not a hope that this section would ever pass muster in the courts of law in the province of Alberta.

Now, why the government is choosing to prolong litigation and why it's choosing to introduce in this piece of legislation a section that will stall, that will delay, that will beg for appeal in the judicial system is beyond me. This is a government that continually says that it wants to streamline, that it wants to avoid overlap, that it wants to avoid duplication. We've had debate in this House just in the last few days, with members on the government side saying how expensive court procedures are, how time consuming court procedures are. Well, Mr. Chairman, if members opposite believe that the court system in the province of Alberta is slow and tedious and costly and expensive, then why in the world are they putting in section 121(2), that is going to beg for appeal every time that section is ever even attempted to be used in the courts in the province of Alberta? You simply can't get away with having a certificate of analysis “accepted as prima facie proof”, which is in violation of the fundamental laws of the province of Alberta in the dominion of Canada.

The amendment that is proposed by my colleague for St. Albert not only deals with that particular issue in suggesting that

no certificate shall be entered in a prosecution . . . unless . . . the

prosecutor has served on the defendant a copy of the certificate of analysis and a notice of intention to utilize [it] as evidence in the trial.

Mr. Chairman, again, that is the appropriate and fairness aspect of the judicial proceedings in the province of Alberta, in the court system in the province of Alberta.

I am looking forward to having government members stand up and say why they believe it's necessary, not only necessary but important, to turn their backs on the fundamental principles of law in the province of Alberta and to continue to laugh and joke about it and why it's not important to stand behind the rules of fairness that have got us to this point in Confederation in a judicial system that in fact does work.

Section 122 is the corollary amendment, Mr. Chairman, in that the document cannot be admitted

unless notice by the Prosecutor of an intention to do so has been served on the defendant not later than 10 days prior to the commencement of the trial.

You can't have, Mr. Chairman, section 121 in its current form. The government members appear to be disinterested in flying in the face of fairness in the judicial system. In fact, it would suggest that they like the idea that they can be heavy handed, Big Brother – cheap shots in the prosecution of someone under Bill 6. Whether or not that individual, that entity, is innocent or guilty doesn't matter to the government. They don't like in this instance the issue of innocent until proven guilty. They don't want to see a fair trial take place. They just simply want to streamline the operation so that somebody can sign the certificate of analysis, and: “Hey, good enough. What do we need a court system for anyway?”

It's not good enough, hon. members, and you can't get away with section 121. The defence bar in the province of Alberta is waiting in anticipation to make a great deal more money when the government passes this Bill.

Mr. Chairman, I guess my final comment to members on the government side is: don't stand up in this Legislative Assembly and tell members of this House and tell the public of Alberta that you don't like the court system, that it's tedious, that it's burdensome, that it's time-consuming, that it's expensive. You're creating it. You're creating it right here in section 121(2) of this Bill. The government is creating that by allowing section 121(2) to stay in there, which will in fact and for sure make the court system tedious and burdensome and call for appeals and become more expensive. Yes, it will become more expensive for the defendant. But who's paying for the prosecutor? You are, Mr. Chairman, and so am I and so is every member of this Assembly and so is every Albertan, because the government really and truly and honestly doesn't care about saving the taxpayers of Alberta any money when it's not convenient for them.

Rhetoric. All of the talk that this government likes to engage in when it sounds really good is all just pure rhetoric. Put it into section 121(2). That's the section that says: spend, spend, spend, spend; not a problem. Let's keep going to court over and over and over again. Let them appeal. Let's go to the Charter of Rights, back to the Supreme Court one more time. The Department of Justice in the Stinchcombe case: 10 years for the Department of Justice to take that case through the courts, to finally come back and say, “Aw, forget it.” There goes 10 years' worth of taxpayers' money paying for that court case. Watch for it again, Mr. Chairman, under section 121(2), because they can't get away with it, and every defence council in the province is going to take the government to task on it. So go ahead, government. Spend, spend, spend, or accept the amendment.

Thank you.

[Motion on amendment A11 lost]

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

8:30

MR. BRACKO: Thank you, Mr. Chairman. I will move forward. [interjection] I hear the Member for Calgary someplace or other pouting again. Here we're trying to make the Bill better, make the government side look good, make the minister of transportation and liquor and so on look better, and we hear the pouting. Unbelievable. The Energy minister there.

I will now move A12, Mr. Chairman, and it will be N, O, and P together. I'll speed it up in the interest of time; you know, make sure that money spent here is wisely spent. But I can never get a reciprocal agreement from the government. They're spend, spend, spend, as the Member for Sherwood Park just said.

Section 126, Mr. Chairman, is amended by adding the following after subsection (2):

- (3) Where the Minister or the Lieutenant Governor in Council proposes to make a regulation pursuant to this section, a copy of the proposed regulation shall be forwarded to the Standing Committee on Law and Regulations.

Subsection (4) is added:

The Standing Committee on Law and Regulations shall examine any proposed regulation to ensure that

- (a) it is consistent with the delegated authority provided in this Act,
 (b) it is necessarily incidental to the purpose of this Act, and
 (c) it is reasonable in terms of efficiently achieving the objectives of this Act.

We turn the page now to subsection (5):

The Standing Committee on Law and Regulations shall advise the Minister when it has completed its review of a proposed regulation and shall indicate any matter referred to in subsection (4) to which, in the opinion of the Standing Committee, the attention of the Minister should be drawn.

Next, section 127 is amended by renumbering it as section 127(1) and by adding the following after subsection (1):

- (2) All regulations made by the Board pursuant to this paragraph shall be published in The Alberta Gazette as soon as it is practicable.

Finally, section 128 is amended by renumbering it as section 128(1) and by adding the following after subsection (1):

- (2) Where the Minister or the Lieutenant Governor in Council proposes to make a regulation pursuant to this section, a copy of the proposed regulation shall be forwarded to the Standing Committee on Law and Regulations.
 (3) The Standing Committee on Law and Regulations shall examine any proposed regulation to ensure that
 (a) it is consistent with the delegated authority provided in this Act,
 (b) it is necessarily incidental to the purpose of this Act, and
 (c) it is reasonable in terms of efficiently achieving the objectives of this Act.
 (4) The Standing Committee on Law and Regulations shall advise the Minister when it has completed its review of a proposed regulation and shall indicate any matter referred to in subsection (4) to which, in the opinion of the Standing Committee, the attention of the Minister should be drawn.

Mr. Chairman, in speaking to this, this is what democracy is all about, where we bring in a Bill and then the regulations that are put forward by the government or the minister are sent to the standing committee chaired by the Member for Calgary-Shaw. It's only appropriate that it's called. This is done here in the Legislative Assembly so that everybody, both sides of the House,

has a look at the regulations. We could comment on them, and if they're not appropriate, we could change them, amend them, or delete them, but not have regulations that are hidden and not known to all Albertans.

These regulations should be published, again, in the *Alberta Gazette* so that all those who are involved in business, the liquor business or any other business, would be able to go to the *Gazette* and see what changes have taken place, not hear about how it's affected them a year or two later. This is a matter of communication. It should be on computer, in fact, so they can hook up by E-mail and get anything. [interjection] Yes, like the Member for Calgary-West has and is using efficiently in a very productive way. He can do two or three things at once. Instead of sitting here and not being able to proceed, doing more than one thing. He listens, he works, and he moves forward: a leader in this Legislative Assembly. I want to commend him on using his computer. It should be in the *Gazette* so that everyone knows right across this province, no matter where you are. Many of the businesses, many of the people are hooked up to E-mail. This is something they'd have access to, making it more efficient, more timely, and a wiser use of our tax dollars, as it affects all of us.

So with that I will sit down. I know other members of my caucus want to speak to this. It's an issue we'll continue to pursue, Mr. Chairman, continue and continue. It may take us one year, it may take us five years, it may take us 10 years, but we're going to pursue it until these go to the Standing Committee on Law and Regulations.

AN HON. MEMBER: In your case you're not going to live long enough for that.

MR. BRACKO: I know. Thank you. That'll be good. Well, I'll leave it to the memory of my children and my grandchildren. You know how it is. They can look back and say: "Yes, he was responsible. He took the step."

It was like the debt in 1986: \$3.4 billion. For nine years we've said, "Do not have deficit budgets," but they had deficit budgets. It took them nine years to learn, Mr. Chairman. Nine years. Not one year, not two years, not five years, but nine years of deficit budgets in order for us to get through to the spend, spend, spend Tories of the province of Alberta. Can you believe that? We will persevere. We'll fight them in the Leg., we'll fight them down in the communities, we'll fight them in rural Alberta to make sure that Albertans are best served in this province by this party, the Alberta Liberal Party.

With that I conclude, Mr. Chairman.

THE DEPUTY CHAIRMAN: Obviously there was a lot of racket in . . . [interjections] Order.

Hon. Member for St. Albert, I was trying to call you to order because you were far away from the Bill, but there was so much racket I couldn't even hear what you were saying.

MR. BRACKO: Could I repeat it, Mr. Chairman?

THE DEPUTY CHAIRMAN: No. No, thank you.

Okay. If we've got a little order now, we'll continue with the debate on the amendment to Bill 6.

The hon. Member for Edmonton-Centre.

MR. HENRY: Thank you. That's a hard act follow, Mr. Chairman, but I notice the hon. member across the way is urging

me to get up and speak to the amendments that we're debating.

I've been around this building about – it seems like too long sometimes, but I've been around since the hon. Minister of Energy was a lowly backbencher, way in the back 40. I can remember that, Mr. Chairman. I remember back in about 1989, during the '89 election – and there's an important lesson to learn here. During the '89 election the Liberals went from one end of this province to the other end of this province and all the pundits said: "The Liberals haven't got a hope in Hades. They'll never make it. They'll never get elected. The Conservatives are going to wipe them off the face of the earth." The leader at the time, Laurence Decore, decided he needed to take the message that needed to be heard in that era into the heartland of fiscal conservatism: downtown Calgary. So he spoke to the Chamber of Commerce in downtown Calgary, and he talked about the fact that the Conservative government was wasting money. The Conservative government was spending money on NovAtel and Gainers and

THE DEPUTY CHAIRMAN: Hon. member, I'm a very patient gentleman. However, we've got to get on to the amendment to Bill 6, please, hon. member.

MR. HENRY: There's no doubt, sir, that you are a gentleman, but I am speaking to the amendment. The amendment that I'm focusing on calls for all regulations to be referred to the Standing Committee on Law and Regulations, and I see hon. members across the way laughing at the amendment. Well, back in 1989 the Conservatives laughed at Laurence Decore, even though the Calgary Chamber of Commerce gave him a standing ovation, when he held up his wallet and said: "We're spending too much. Enough giving money to business." [interjection]

Mr. Chairman, the hon. minister of agriculture is chirping away there, but he was sitting on the back benches, and he was voting in his caucus for all of those expenditures, and he was laughing at the Liberals then when they were saying: "We've got to stop the handouts to business. We've got to stop doing that." Finally the government saw the light and decided that maybe we needed to stop giving money to some businesses, although we know that what they've really changed now is they're giving money to selected businesses, not ending business subsidies altogether.

8:40

Mr. Chairman, then the '89 election happened, and the Liberals came in with 29 percent of the popular vote. The first item the Liberals tabled was a freedom of information Bill, and again the members laughed. The minister of agriculture, the Minister of Municipal Affairs, the Minister of Energy, the minister of advanced education, the Minister of Environmental Protection were all sitting on the backbenches, and they laughed and said: we don't need freedom of information; you can have any information you want. Yet, no, we couldn't get any information from this government, and they laughed and they laughed about that and said we didn't need to do that. Well, after about five successive times of bringing that Bill forward, it became an issue in the 1993 election, and finally – finally – the Premier saw fit to bring in, albeit a watered-down version, freedom of information legislation.

[Mr. Herard in the Chair]

The Liberals back in 1989 and 1990 started talking about parliamentary reform, started talking about the need for free votes, started talking about the need for changing the budget

process and having more scrutiny, and again the Conservatives on the other side of the House laughed and rolled over. I daresay the Member for Barrhead-Westlock was even one of those who said: you don't need to do that; it all works just fine. We pushed and we pushed and we continued to push, and every time the budget came through we made the same motions to establish subcommittees. Every time votes came we called for free votes. We continued to press the government. It took about five years, but finally the government partially saw the light and brought in at least a better system of scrutinizing the budget. I'll give the government credit for this. They gave a better system of reporting the budget and breaking down the figures so at least we could have some informed debate on both sides of the Legislature.

Well, here now we sit in 1996, and again the Liberals are at the forefront saying that what we need to do is use the tools that we have and have the Standing Committee on Law and Regulations actually function and actually review regulations before they are enacted by an order in council by the government. That way we can make sure there are no flaws. That way we can make sure there is public debate, that there's public information about what's going on.

Right now what happens, Mr. Chairman, is that the minister and the bureaucrats involved get together with a few of the backbenchers and they draft some regulations. Usually they're done fairly quickly, and depending on the minister, quite frankly, they may or may not be fed out to the stakeholder groups and to the public for comment and for input. Then they're passed one day by an order in council. Nobody knows what's passed until after it's all over. Then it's a done deed. Then it's too late to catch mistakes. Then it's too late to perhaps make better wording. Then it's too late to include all of the comments of the various stakeholder groups. Then it's too late to make sure that the work that's done in terms of regulations is the best work that can be done.

Again hon. members on the other side sit and laugh or look in disbelief and say: how crazy can they be; why are they pushing this committee that we don't see? Well, this is the same history, the same pattern we've seen with freedom of information, with opening up the parliamentary process a little bit, as well as balancing the budget. It was this side of the House that pushed those issues.

We all know what the result of the vote on this amendment is going to be. The government members are going to use their majority, and they're going to hammer us over the head, and they're going to say, "No way, no way, no way." It doesn't matter how good the idea is; they're going to say: "No way. It's an opposition idea. We can't accept that." We can see the hon. Minister of Energy laughing about it now. She actually enjoys pounding us over the head, I daresay, and using that majority to do that.

I want every member of this Legislature to remember when we get down two years or three years or after the next election when indeed we might actually see the Standing Committee on Law and Regulations actually function. I'd like to issue a challenge to the Member for Calgary-Shaw, the chair of that committee, to actually call a meeting and to actually hold a meeting. Again members may laugh, but the hon. Member for Calgary-Shaw could display a great amount of integrity, could display a great amount of fortitude if he actually called that meeting, even though some of his ministers might be uncomfortable about having their regulations reviewed by an all-party committee prior to being passed into order in council by the cabinet. But of course he won't because he's going to toe the government line. He's going to be a good little boy and do exactly what he's told to do. He's

been told not to call this committee, so he's not going to call this committee. It'll never see the light of day, and Albertans are worse off for it, Mr. Chairman.

Mr. Chairman, another part of this amendment calls for regulations to be published in the *Alberta Gazette*. How innocuous can you be? Why would you not want to have your regulations in the *Alberta Gazette*? We find now that we have pieces of legislation that have been brought forward to this House and regulations that have been proclaimed subsequent to passing by this House that aren't even being enforced, that aren't even being followed, and I daresay – and I'm pointing to some of the charities in our province, where we know a number have not complied with recent legislation, perhaps because they don't know anything about it. Were those regulations subsequent to that legislation published in the *Alberta Gazette*, virtually every charity – I see the Minister of Municipal Affairs laughing about it. In my experience in charities, which I daresay is more than the minister's, every charity in this province will have a connection with a lawyer who sits on the board or quite often a volunteer solicitor who does things like make sure the *Gazette* is reviewed and makes sure that anything that is of interest or importance or relevance to that charity is brought to the table.

I know the Member for Edmonton-Glenora probably has even more experience with charitable organizations than I do, and he will find the same experience, that if we can get the information out to people, they will act in a responsible manner. But again this government wants to – perhaps they decided that what we need to do is: "Let's get our laws and let's get our regulations together and then not tell anybody about it. Then we can complain when people don't follow procedure, when they don't follow regulation."

How innocuous can you be in terms of an amendment that brings forth giving information to people? We're not asking the government to spend a million dollars every time they pass regulations and buy ads in all the papers and publish them. We're asking them to produce it in the *Alberta Gazette*. What we have is a trend here where the government's become more and more secretive and more and more closed door and, I daresay, Mr. Chairman, more and more elitist and more and more wanting to shun the publics out there that they are meant to serve.

Mr. Chairman, I would urge all hon. members to support the amendment, which would make sure that all regulations subsequent to this Act go to the Standing Committee on Law and Regulations. I again encourage the chair of that committee to actually call a meeting. Goodness knows, there would be a lot of rejoicing on this side of the House if a meeting were actually called. As well, I encourage all hon. members to support publishing the regulations in the *Gazette*.

Mr. Chairman, I don't understand how anybody could not support that. With those comments, perhaps I'll take my seat and allow other members.

Thank you.

MRS. BLACK: Mr. Chairman, I move to adjourn debate in committee and have the committee report progress when it rises and reports.

THE ACTING CHAIRMAN: The hon. Deputy Government House Leader has moved that we adjourn debate on this particular Bill and that progress be reported when we rise. All those in favour, please say aye.

SOME HON. MEMBERS: Aye.

THE ACTING CHAIRMAN: Those opposed, please say no.

SOME HON. MEMBERS: No.

THE ACTING CHAIRMAN: Defeated. [interjections] I said defeated. You lost it.

The hon. Member for Edmonton-Glenora.

8:50

MR. SAPERS: Thank you very much, Mr. Chairman, and I appreciate your ruling. I thought that I would take this opportunity to just highlight some of the areas that are subject to regulation under this Bill. I will do this, of course, in support of the amendment that's currently on the floor. It is very, very important, I think, that all Albertans are very clear what it is that this government would have done behind closed doors and left to the Lieutenant Governor in Council.

For example, in section 126 of Bill 6, regulations would be made to establish the "classes of gaming licences, facility licences and liquor licences." Now, Mr. Chairman, when you realize that what we're talking about is the Gaming and Liquor Act, I can think of nothing more substantial, more important, more central to this legislation than the establishment of classes of gaming licences, facility licences, and liquor licences. I'm not sure that it would even be good enough to make sure that this is reported in the *Gazette*. I'm not sure why this isn't really part of the legislation, but that notwithstanding, the amendment calls for it simply to be brought into the light of day. The amendment calls for regulations made pursuant to this section to be talked about, to be debated, to receive the benefit of public input. I can't imagine why the government would not want to see that happen.

Another regulation the government would like to leave to order in council would be

respecting application procedures for licences and registration, including requirements relating to the advertising of applications and procedures for obtaining and dealing with public responses to applications.

Let's think about this logically for a minute. Here we have a situation where the government would have regulations made behind closed doors by the Premier and his business partners respecting the application procedures. They – and by "they" I mean the government – are not even going to make as public as they can, as public as could be done, the application procedures for licence. They won't even advertise or make public or have debate or deal with in the open how the public may respond to applications. Why, Mr. Chairman? Why is the government wanting to do that nature of business behind closed doors? Why would they want to keep Albertans in the dark?

Again, Mr. Chairman, I believe that regulations as substantial as this may even be better in the legislation. Albertans would certainly be better served if they could turn to a law on the books of the province of Alberta and know for certain what the application procedures were instead of having to find their way through volumes of regulations, if they could even find them published.

Another regulation, Mr. Chairman, is "respecting conditions and eligibility requirements that must be met before a licence is issued or a person is registered." Again, what could be more important to have the benefit of public debate and to have the benefit of public notification than the conditions and eligibility requirements for licensing?

Another regulation: "respecting fees for licences and registra-

tions." Do you know what this means, Mr. Chairman? This means that anytime they want, this government can get together in their private offices and they can conspire to change the fees for licences anytime they want to any level they want. This government, which says that it wants to balance the books entirely by cutting spending but has already brought to the people of this province hundreds of new user fees and has taken out of their back pocket millions of dollars in new taxes, now wants the ability to do that in secret. They want to do that in secret. They want to say: "Hey, you know what? Ssh, let's just keep this to ourselves, but we're going to be able to pick the pockets of Albertans and Alberta businesses and small businesses of any amount that we want, and we're not even going to tell them until it's too late." Mr. Chairman, that is unbelievable. It is hard to believe that the government would try to sneak this kind of power of taxation into the regulation section of a Bill. We can't allow that to happen.

Now, another section, Mr. Chairman, and I'm not making this up, as much as you may think I am. They want to leave to regulation

relationships and activities between

(i) liquor suppliers, their officers, directors and employees and liquor agencies and representatives that are required to be registered . . . and

(ii) liquor licensees and their businesses and property, and the board, the Commission and its employees or agents.

In other words, everything that defines the nature of the business relationship between the board and the liquor suppliers and the liquor resellers this government wants to deal with in secret. In secret. Yet this is the government where minister after minister will stand up and say, "As a result of the openness of this government," and then they tell us what little bit of information they want. They throw out those little stale crumbs of information as though to try to convince the people of this province that they really do believe in openness and accountability, when every day they bring to the floor of this Assembly Bills like this, like Bill 6, that hide such substantial sections in the regulations section. It's got to stop. They've got to be stopped.

MR. HENRY: Stop them.

MR. SAPERS: Hon. Member for Edmonton-Centre, every day in this Assembly you and I and all the members of the Liberal caucus try to stop them, and we'll continue to do that until we do stop them.

Another area subject to regulation. I am now quoting from subsection (p) of 126(1), where it says, "respecting agreements between liquor suppliers and liquor licensees that are permitted for the purposes" of another section. Respecting the agreements. What agreements? What is the nature of those agreements? Why again is the government keeping this a secret? Why are they leaving this to regulation? Why are they leaving this just to cabinet, which is really what Lieutenant Governor in Council means, to get together and not bring it to the floor of the Assembly? Likely not even bring it to their own backbench, not even include their own members, excluding the vast majority of the elected members of this Assembly and just keeping their secrets amongst themselves for those lucky few whom the Premier has tapped on the shoulder and said: "Hey, come on in. Join the club. We'll put you in cabinet, but ssh; keep secrets. You've got to promise to keep secrets." I'm sure that's exactly what he says when he invites them around the big table, Mr. Chairman.

Another section:

respecting the display, manufacture, import, purchase, sale,

transport, giving, possession, storage, use and consumption of liquor.

Now, Mr. Chairman, this defies logic. This is Bill 6, the Gaming and Liquor Act. In spite of the fact that we're dealing with some 40 to 50 pages of legislation, listen again closely to what's going to be left to regulation in the Gaming and Liquor Act. Not debated in public, not part of the law but left to regulation is going to be the "display, manufacture, import, purchase, sale, transport, giving, possession, storage, use and consumption of liquor."

Why do they even need the Bill? Why didn't they just say, "We're going to do it all by regulation"? Is it because the Member for Peace River, with his deregulation crusade, wouldn't let them? Why exactly is it that they even come to us on the one hand in the Assembly and say, "We're going to pass a new law respecting the regulation of the sale of liquor in the province," and then put into regulation almost everything that pertains to the sale or trade of liquor?

Another section which defies logic: "designating sections in the regulations the contravention of which is an offence." Now, this is the last section I want to bring to the attention of the members of the Assembly, but, Mr. Chairman, this is an important section. "Designating sections in the regulations the contravention of which is an offence." You know, this is like a double negative. Let's think about this for a minute. First of all, this section says we're going to make regulations that will tell us about those sections which are an offence, and then it goes on to say that only of the regulations. Now, what that means is that the government, in the guise of the Lieutenant Governor in Council, will make all of these regulations, which we know are really the nuts and bolts of this Bill, and then in secret, just amongst themselves, they'll conspire to agree which regulations if you contravene them are an offence and which ones aren't.

Now, this begs several questions. Number one, why would you have a bunch of regulations and then say that only some of them are important and some aren't? Why is it an offence to disregard some regulations but it's perfectly okay to disregard others? That doesn't make any sense, but what makes even less sense is to try to keep that a secret and to keep that distinction just amongst themselves. Why would the government want to do that? If you're going to create offences which will have impact on the people of this province, the businesspeople of this province, the taxpayers of this province, it seems to me that those offences should be known to everybody. In fact, it's a fundamental principle of common law that the law should be known and understood by all. So why would this government want to contravene that most basic tenet of common law and keep it to themselves, keep it secret, first of all decide which regulations will or won't be important, which regulations they will make in secret and which ones will be public, and then decide which ones the contravention of which will constitute an offence? It is just plain wrong. It is indefensible.

9:00

Mr. Chairman, for the benefit of this government and for the benefit of all taxpayers of this province and really for the benefit of the sanctity of the institution of parliamentary democracy it is absolutely essential that this amendment pass so that we know that this government is sincere, at least to this extent, that they want to be open, that they want to be accountable, and that they don't really want to do all of their important business in secret.

I urge all members of the Assembly to support this amendment.

MRS. BLACK: Mr. Chairman, we'll try this one more time. I'd like to move that we adjourn on this Bill and that the committee report progress when it rises.

[Motion carried]

Bill 18
Energy Statutes Amendment Act, 1996

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

MR. MAGNUS: Thank you, Mr. Chairman. It's my pleasure tonight to be able to speak to the Energy Statutes Amendment Act, 1996, also affectionately known as Bill 18.

I did have a number of questions from a couple of members opposite during second reading of this Bill, Mr. Chairman, but their interest seems to have waned. At this point I'll answer a couple of these questions, and then hopefully we'll be able to move on and get on with the business of this Assembly.

The Member for Edmonton-Whitemud had some questions suggesting that the power to make decisions in an emergency without LGIC approval removes a check and balance of the parliamentary system. The section to be repealed, Mr. Chairman, is section 5(e), which already extends the power to divert gas in emergency situations as well as some other situations. What this does, taken together, is limit the power of the regulator to in fact only divert gas without LGIC approval by restricting this power to defined emergencies only.

He asked about the circumstances under which the power may be exercised and the time savings involved. The major utilities have essentially identified four major supply facilities at which an instantaneous failure would create the need for a diversion almost immediately, Mr. Chairman, certainly within a matter of a few hours. The only time that this amendment would in fact be used is when there was an emergency that threatened the life and limb or property of Albertans. The aim of this, again, is in life and emergency situations only. It won't be used in a frivolous manner in any way, shape, or form.

The timing is particularly critical. If you had a failure during a weekend, a holiday for example, it would be very, very difficult to get the people together so that in fact they could get that diversion of gas. It is fully anticipated that the market could handle an emergency diversion within 24 hours, but the simple fact of the matter is that it's really hard to get a group of people together within a 24-hour period in order to make sure that Albertans have that critical supply of gas. That is the reasoning behind this.

Some of the other questions, Mr. Chairman, are quite repetitive, somewhat redundant actually, between the various players and the various questioners, but I'm going to try and put a couple of them together, if I may, and hopefully will answer all of the questions. Anything that I don't answer tonight I will endeavour to get back to the members that require the answers.

The Member for Edmonton-Whitemud asked how these amendments tip the balance between players in the market and the regulatory authority. Well, in point of fact they do tip the balance again back to the marketplace, which is the general direction of this government, I would think, in a great many situations. But they still retain the ability for the regulator in matters of emergency to come in and actually divert gas and, again, only in emergency situations.

The Member for Edmonton-Whitemud, again, asked if the

amendments will result in a regulatory overload. The simple fact is that there are no new regulations coming out of this at all, and they don't create any kind of a new regulatory regime. The checks and balances already in place will continue to be in place with respect to any functions that the board does, and this isn't going to change it at all.

The Member for Edmonton-Manning had a number of questions. He asked if there was a draft of the regulation which will define "core consumer." The regulation under the Gas Resources Preservation Act has not been written yet, but it is expected that the same definition within the Gas Utilities Act will in fact be used for this one, and it basically is defined as a nonindustrial consumer without a sustainable alternate fuel capability.

The same member asked if we're placing absolute reliance on the market. Well, again, I believe I explained that with the first question that I was giving the explanation to. The fact of the matter is that we still retain the ability, if you like, in emergency situations for the regulators to come in and assure surety of supply.

The last question, again by the Member for Edmonton-Manning: he wanted to know which board we're referring to. The references are to the ERCB and the PUB, which of course have been amalgamated, and the board that we're talking about is the AEUB, also known as the Alberta Energy and Utilities Board.

Mr. Chairman, those are the majority of the questions the members opposite asked at second reading. I'll sit back and listen to their responses to those answers and any new questions they might have and, again, will endeavour to get back to the members after the fact or during this Committee of the Whole to answer any questions they might have.

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

MR. DALLA-LONGA: Thank you, Mr. Chairman. I would like to rise to speak to Bill 18. I have some concerns about the Bill. It's got some changes. I think the central theme of these changes is similar, that being that these changes here give an awful lot of authority to an unelected body. Now, the Member for Calgary-North Hill said, for example - under the Gas Resources Preservation Act what happens in the case of an emergency in 24 hours? Well, we've done just fine till now. We haven't had this type of an emergency, and I'm sitting here trying to imagine the types of disasters that are being contemplated by this Bill and how this is going to help solve those types of disasters. Or is it in fact that these changes are just to expedite what otherwise should be a more parliamentary process?

Now, I can appreciate - and members on this side as well as the House in its entirety are in favour of updating and streamlining the provisions regarding diversions for common carriers and common purchasers of processed gas, but, Mr. Chairman, what we have to be careful of is that we don't give too much authority to unelected bodies. They can - and we've seen instances of that - run off and start achieving undesired results with this newfound authority.

One of the things that concern me - and I'll speak about it a little bit later; I'll just mention it now - is that one of the objectives is to allow the flow through of certain penalties by the Alberta Petroleum Marketing Commission and allow others to be liable for the conduct of others. Now, I think we're seeing these days, right now, that the Alberta Petroleum Marketing Commission is a whole issue in and of itself. We're not even sure, Mr.

Chairman, who's going to be selling our oil let alone who's going to be levying any penalties that come as a result of it.

Now, I appreciate the Member for Calgary-North Hill sort of trying to enlighten us as to the type of emergencies we might be getting, particularly under the gas preservation Act, but once again, we haven't had a need for any such type of emergency. I don't think our gas is suddenly going to be shut off over 24 hours. What we're talking about here, if I read this correctly, is the ability to set the price. That doesn't mean our gas is going to be shut off. I'm still not sure what type of emergency was being contemplated here. The board is going to be given the ability to set prices in case of an emergency where the purchaser and the supplier cannot agree. Well, you might have that in one instance. But is that going to create an emergency for the entire province? I think not. I mean, disagreements happen all the time. What this does is give an unelected, unaccountable board the arbitrary power to set the price of gas in a situation it determines to be an emergency – it determines to be an emergency. We don't have a definition for what might be an emergency. What might be an emergency to me might not be an emergency to someone else.

9:10

So, Mr. Chairman, I just find that there's too much ambiguity in what this Bill is trying to accomplish. The board, in this case the ERCB, which has been amalgamated with the Public Utilities Board to form the AEUB – through Bill 8 the AEUB will be given increased influence over the regulatory regime, and there will be a corresponding decrease in government accountability.

Be that as it may, I'd like to speak a little bit about the Oil and Gas Conservation Act. Now, under the Oil and Gas Conservation Act the board's regulatory power is also enhanced vis-à-vis the common carrier. The board will be able to direct:

- (a) the point at which the common carrier shall take delivery of any production . . . [which is] handled . . . by means of a pipeline, or
- (b) the proportion of production to be taken by the common carrier from each producer or owner offering production to be gathered . . . [which is] handled . . . by means of the pipeline.

The board apparently here is also, Mr. Chairman, going to be given the power to determine the proportion of production to be processed by the common processor and the total amount of gas to be processed by the common processor. Once again, I believe that this represents a shift of power to the board, an unaccountable body, away from this Legislature. It also heightens the regulatory regime.

I'm supportive of having streamlining and trying to make sure that things go as smoothly as possible, but I repeat my earlier comments that we run the risk here of having an unelected, unaccountable body run off and do things that might have unintended consequences.

Now, I'd like to focus in a little more, Mr. Chairman, on the Petroleum Marketing Act section here. This change allows the flow through of certain penalties which the APMC may be liable for due to the conduct of others. The potential reach of this change is a cause for concern to us. I'm not sure I even understand what type of penalties or all the types of penalties that could be levied under this section. I look forward to the comments from the Member for Calgary-North Hill to maybe enlighten me on that.

I'm concerned about giving the APMC this kind of power. I mean, right now we're not even sure – I'm not sure anyone's sure – who's going to be marketing our oil, that being the province's

share of the royalty oil. We can't decide. We're not even sure that maybe we shouldn't be going to a cash royalty system. I know the arguments that the Energy minister has put forward, and they may very well be valid for why we can't go to a cash royalty system, but here we are giving a board additional powers when we have so much uncertainty. That uncertainty isn't only in my case; it's in the case of the industry as well.

The section that gives me the most concern is section 18(2)(a) and (b), which is found in part 2 of the Petroleum Marketing Act. The title of this section is Marketing of the Crown's Royalty Share of Crude Oil. In effect, the change contained within this legislation, Mr. Chairman, constitutes a wide-open penalty clause for the APMC, which is, I'll mention again, soon to be privatized by the Minister of Energy. Hence, we will have once again an unelected, unaccountable body with the right to set penalties and levies without any means of accountability. I've discussed this with the Energy minister previously, and I take note of her response.

Furthermore, there'll be a noticeable lack of an appeal mechanism for those charged with these penalties. Of course, I guess we can always appeal things to someone; whether they have to listen to us is another matter. I'm told that we could appeal it back to the board itself, but if the board levied the penalty in the first place, why would it necessarily change the penalty that it's imposed? Shouldn't we have some other body that would be independent hear the appeal? Anyway, Mr. Chairman, I think that this flies a little bit in the face of justice.

I think overall the intention of the Bill is valid, but we may be creating a few more problems than we had intended. So in that event, Mr. Chairman, I would like to propose an amendment to Bill 18. I'd like it passed around at this point and give the members an opportunity to have a look at it.

THE ACTING CHAIRMAN: Hon. member, we'll call that, for our reference, A1.

9:20

MR. DALLA-LONGA: As you wish, Mr. Chairman.

So, Mr. Chairman, what I would like to propose in this amendment is that section 18 be amended and that we repeal section . . . [interjection] Am I to take it that the minister is in favour of this amendment? We're going to be repealing subsections (2)(a) and (b). We would propose to repeal those sections. I'll just read them here briefly.

- (a) respecting information to be furnished to the Commission, the persons required to furnish that information, the form in which that information must be furnished and the time within which the information must be furnished;
- (b) respecting the imposition of pecuniary penalties payable to the Commission, the circumstances in which the penalties may be imposed, the persons liable to pay the penalties and the time by which the penalties must be paid.

I'd like to substitute those sections with (2.1) in essence with:

- (2.1) Where the Lieutenant Governor in Council proposes to make a regulation pursuant to subsection (2)(a) or (b), a copy of the proposed regulation shall be forwarded to the Standing Committee on Law and Regulations.

I don't know why the Member for Calgary-North Hill is so surprised. He's seen forms of this amendment before. We would like to have some accountability. Mr. Chairman, that's all we're trying to do. We're not trying to change the nature, but where some of these circumstances arise, in this case the imposition of penalties, we would like to have some accountability.

Further, in regard to those changes, we would propose a new subsection:

- (2.2) the Standing Committee on Law and Regulations shall examine any proposed regulation to ensure that
- (a) it is consistent with the delegated authority provided in this Act,
 - (b) it is necessarily incidental to the purpose of this Act, and
 - (c) it is reasonable in terms of efficiently achieving the objectives of this Act.

Finally, we would propose a final change under a proposed section (2.3), whereby:

The Standing Committee on Law and Regulations shall advise the Minister when it has completed its review of the proposed regulation and shall indicate any matter referred to in subsection (2.2) to which, in the opinion of the Standing Committee, the attention of the Minister should be drawn.

So, Mr. Chairman, I believe the spirit of this amendment is to try to sort of address the concerns that we have, particularly with regards to the imposition of these penalties. It's not a big thing to ask, and I would welcome the comments from the minister and from the Member for Calgary-North Hill now that they've had an opportunity to look at this amendment. At that point I may comment further.

Thank you.

THE ACTING CHAIRMAN: The hon. Member for Sherwood Park.

MR. COLLINGWOOD: Thank you, Mr. Chairman. The hon. Member for Calgary-West suggested in his closing remarks in speaking to the amendment as proposed by him that it's not a big deal to ask the government to allow the Standing Committee on Law and Regulations to meet and examine proposed regulations. I guess I'd have to take issue with that comment because apparently from the government's perspective, it is a big deal. In fact it's a huge deal. In fact it's an insurmountable deal.

The Standing Committee on Law and Regulations as it currently exists in this Legislature is a nonstarter, a nonentity, and from the government side nobody's ever been able to explain why the Standing Committee on Law and Regulations even exists. It is a total facade, and it is something that the government wants to suggest to the people of Alberta is a procedure and a process and a structure that is there as a further check and balance on accountability when in fact it is absolutely none of those things because the government refuses to allow the all-party Standing Committee on Law and Regulations to have any effect or do any work in any way, shape, or form in this Legislative Assembly of Alberta.

Once again, Mr. Chairman, as the opposition members have done consistently in the past with legislation being proposed in this session, we ask the government to let the Standing Committee on Law and Regulations do its job, be accountable to the people of Alberta, work with the minister, and do what both government and opposition are supposed to do, and that is to work together in the development of proposed and draft regulations.

The provision of or the opportunity for the public to look at draft regulations is not something new. Even this government, Mr. Chairman, has in the past allowed the public a sneak preview of some draft regulations. Now, admittedly, once the public is aware of how the draft regulations are going to read, they then change them so that they are a 360 degree reversal from what they told the public of Alberta. Nonetheless, there at least have been some events transpire in the past where there has been exposure of draft regulations prior to their passing by order in council by the Lieutenant Governor and the cabinet.

The regulations that are being proposed in Bill 18 through the Petroleum Marketing Act in particular deal with the imposition of pecuniary penalties payable to the commission. It is broader in the amendments proposed in Bill 18 than it was in the existing Petroleum Marketing Act under section 18(2). The change in section 18(2)(a) does and still does relate to information that is to be furnished to the commission. It leaves the Lieutenant Governor in Council to determine the persons required to furnish the information and the form in which the information must be furnished and the time lines for that.

Now, Mr. Chairman, presumably section 18(2)(b), which deals with the imposition of the pecuniary penalties, is intended to deal with the late filing of that information and of those reports. The statement that is in there currently is broader than that in that it is simply identified as

the circumstances in which the penalties may be imposed, the persons liable to pay the penalties and the time by which the penalties must be paid.

Again, one can assume that it is still in relation to late filing of information, but that's not the way it's worded in the proposed amendment that is contained in Bill 18.

As the Member for Calgary-West indicated, in this particular case, where once again members of the opposition ask the government to allow the Standing Committee on Law and Regulations to do its work, we are interested in and I think the public and certainly those who are caught by the Petroleum Marketing Act are interested in having the review take place by the all-party committee to look at when the pecuniary penalties are payable and the circumstances in which they are payable. It would seem reasonable and logical and, not only that, Mr. Chairman, accountable for the government to prepare draft regulations that lay all of that information out in clear and concise form, allow the all-party Standing Committee on Law and Regulations to review those, to check off those regulations to determine and confirm that they are consistent with the delegated authority within the legislation, are necessarily incidental to the purposes of the Act, and are reasonable in terms of efficiently achieving the objectives of the Act.

That's exactly what the regulations ought to do. What the minister is saying, what the government is saying is: "We have the ability to do that by ourselves. We don't need the Legislature's Standing Committee on Law and Regulations to do that for us. We're smarter than they are." On the government side the adage is: fewer heads are better than more; we have all the right answers because we won and you lost. That is the prevailing and continues to be the prevailing attitude of government, Mr. Chairman, where nobody has good ideas except for the government of the province of Alberta and where nobody else should have any opportunity to participate in the drafting of regulations except for members of the government of the province of Alberta.

We see that currently now, Mr. Chairman, with the standing policy committees of government. Taxpayers fund those Progressive Conservative committees. They are not all-party committees, and the government once again says: we know better than the rest of Alberta, so we will confine ourselves and lock the door on the public and have our closed-session, in camera policy committees because we know best.

Mr. Chairman, the amendment that is put forward by the hon. Member for Calgary-West is consistent with amendments that we have put forward repeatedly in this Assembly asking the government to allow the Member for Calgary-Shaw to do his job and actually earn his money as the chairman of the Standing Committee on Law and Regulations.

[Mr. Clegg in the Chair]

So, Mr. Chairman, once again we ask the government to give this consideration and to at some point – there aren't very many regulations that I anticipate would come forward in the changes to the Petroleum Marketing Act that is being proposed at this point in time, and perhaps this one might be a good starting point to allow the Standing Committee on Law and Regulations to do its work and to review regulations that will be prepared under these amendments put forward under Bill 18.

Thank you.

9:30

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

MR. MAGNUS: Thank you, Mr. Chairman. Again another bunch of questions here. Giving authority to nonelected officials was where the Member for Calgary-West was coming from. He was upset about that, didn't feel that that should be. We're talking about emergency powers only. When I started my debate both in second reading and at the start of committee tonight, I in fact pointed out to him that section 5(e) of the Bill already extends the power to divert gas for emergencies, amongst other things. This in fact narrows it down to emergencies only, so I'm not really sure where he's coming from with the question.

As far as APMC and pricing and penalties, what we've got in the Act – and I'm sitting with it here in my hand, Mr. Chairman – is a couple of paragraphs. It's not that complicated. It simply strengthens the rules that are already in place.

As far as sending the amendment over earlier, I'm not sure where the member sent it, but he did not send it to me as the sponsor of the Bill, and I did not see the amendment until it was delivered. In fact, I went up to the front bench and took one off it.

The Member for Sherwood Park talks about sending this Bill to a nonstandard nonentity. Well, if it's nonstandard and nonentity and in his opinion doesn't do anything, I'm not sure where the heck they're coming from when they ask that we send this Bill to that particular committee. If we sent every regulation of government to committee, we'd be in gridlock for the rest of our natural lives, and I frankly have had enough of that. So I'm not sure.

There was a lot of meandering. There seemed to be a couple of legitimate questions, and I believe I've answered them, Mr. Chairman.

[Motion on amendment A1 lost]

[The clauses of Bill 18 agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed, if any?

SOME HON. MEMBERS: No.

THE DEPUTY CHAIRMAN: Carried.

Bill 19
Agriculture Financial Services
Amendment Act, 1996

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

MR. PASZKOWSKI: Thank you, Mr. Chairman. I'd like to respond to four of the questions that were asked at second reading. Why board members on the appeal committee? The appeal committee structure will be up to five local farm non board members sitting on the committee. There will be one board person to provide continuity when the appeals are lodged. The board member will also be knowledgeable on board policy, and he'll be able to relate back and forth as far as the board and the various committees are concerned.

The question was asked about OC power for appeal committees. The Bill sets out the principles of natural justice, and the Lieutenant Governor in Council will establish details which may be revised from time to time as we gain experience with the program and as the program carries on and builds. Previously the authority for an appeal committee on natural justice came by way of regulation. This Bill now gives the authority to the Legislature.

A question on section 7 regarded being in the business of loans and guarantees. This Bill limits the extent of loans to a million dollars per borrower. It takes away the order in council powers that would have allowed for exceeding a million dollars in the past, so actually we're now capping that whole process. AFSC's core business includes beginning farmer loans, commercial loans to add value to agricultural products, and local opportunity bonds for rural development. These are just a few of the examples. These are essential commitments to agriculture and now will have the firm cap of a million dollars, which was not there before. With the current arrears rate of less than 1.5 percent on loans that are outstanding, we shouldn't have any of the concerns that were expressed by the hon. Member for Edmonton-Whitemud in the April 2nd *Hansard*.

Disaster versus insurance. The member kept comparing apples and oranges, because really indeed that's what we have here. Remember that this is an income-based disaster assistance program. The member's comments addressed crop insurance issues, which are production insurance based issues, and not whole farm income issues. Some farmers don't raise any crops.

He mentioned that it's not a disaster program and that it does not cover negative margins. Now, that is where crop insurance does indeed come into play, and it's important that we recognize that. If a farmer wishes to cover negative margins and is in the business of raising crops, he can buy crop insurance, and this will help him cover the area of negative margins. In the case of crop production, if you're caught in a disaster, that is your safety and the process that allows you to protect against negative margins.

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

DR. NICOL: Thank you, Mr. Chairman. It gives me pleasure this evening to rise and speak to Bill 19, the Agriculture Financial Services Amendment Act, in committee. It brings up some issues that have to be addressed in terms of how the Bill addresses the changes in the agriculture financial services group and the functions and the operational practices that they undertake.

The Bill basically begins by making some changes that deal

with the issue of how the pensions are operated and the long-term commitment that the service makes to its employees. This is basically the approach that they're going to look at: allowing them to establish their own pension program. Mr. Chairman, I don't, in terms of our approach, see any questions here except that when it comes time to implement this, I think we need to look at how this is going to relate to the employees of agriculture financial services that were grandfathered under section 8 when the AFSC was put in place. This is an important part because we've got to make sure that everybody will have access to that pension when it's put in place.

The minister has already addressed some of the concerns that were raised in connection with the appeals committee. Here it's a matter of continuity, the relationship that the appeals committee has to the interests of the board as opposed to the interests of the farmer that's going to appeal to the board for some administrative clarification. So I think we need to make sure in the regulations, Mr. Minister, that this is a good, independent process. The feedback that you talked about as to the board member that's on that appeal board, maybe that needs to be a nonvoting member or something like that as you put the regulations together, because this basically removes any conflict of interest between the interests of the Ag Financial Services Corporation and the appellant. So I would hope that you would consider that when it comes time to deal with the regulations.

I guess sections (4) and (5) basically continue along dealing with the appeal process, and we've talked a little about that now.

The next section there, section 6 then, transfers money out of the general revenue fund to the corporation "to meet its obligations." I guess this is a matter, then, of debate each year in the budget allocation, to determine the number of dollars that are put into the Ag Financial Services Corporation to deal with the payments that are necessary.

When we get down to section 7, I guess we can talk here again about all the same things we talked about when we were dealing with the Financial Administration Act amendments. Are these limits that are being imposed here appropriate? Are they not appropriate? Mr. Minister, I would suggest here that now that the other Act, the financial services amendment Act, is passed putting the million dollar limit in, I guess this is a standard procedure then. We shouldn't restrict agriculture to a different level than the other organizations that are handled by Executive Council, by the government, so we won't go through all of the debate that's associated with whether or not a million dollars is an appropriate level in connection with this Bill again.

9:40

I guess section 9 now brings up an issue that I will be bringing an amendment to in a short period of time, Mr. Minister. Here you're talking about the corporation's power to recapture dollars that were not paid correctly, the ability that the corporation has to take back their money. I think prime plus 2 percent is the interest rate you're going to charge. I would suggest that we need an amendment here that basically says that that's a fair practice when the farmer has to pay the interest starting at the point of time of notification by the service.

If a farmer gets an overpayment or there's some miscalculation by the corporation, by ag financial services, and the farmer acts in total good faith, why should that farmer be penalized by having to pay the interest on that overpayment until he's notified that there is an overpayment and then it's his obligation to make payment? This should be handled the same way as we do any other notification of a bill to us. We don't pay interest on our

income tax from the time that Revenue Canada or the Alberta tax process makes the mistake. It's from the time the notification is sent out. You're usually given a certain number of days. Most of the time it's 10 days to two weeks to make payment and then your interest rates start.

So, Mr. Minister, I would hope that when we make this amendment, this is one that you look at and say: "Gee, that's being unfair to the farmer." They shouldn't have to pay that interest until the time when they're notified of the fact that they have money in their possession that they shouldn't have and that they should be making a payment to return that to ag financial services.

I guess the real section that comes up in this Bill is section 10, which deals with a very kind of innocuous clause that allows the government to make payments. Here is an amendment to section 52 which basically adds under section 52 a subsection (b): "in respect of farm income disaster." Mr. Chairman, here we have six little words that are going to allow the government to expend dollars on what is defined as a farm income disaster.

[Mr. Herard in the Chair]

Now, this is a definition that we have to look at very carefully. It's a process that we have to look at very carefully, yet within the context of the Bill we have no indication of what is going on. What constitutes a disaster? We have to look at it from the perspective of: can we as a Legislature justify in those six little words authorizing the government to spend what the minister has told us could be as high as some dollar value in excess of \$200 million in a real critical year, with an average in the \$75 million to \$78 million range over an annual basis being put out through this program? It's all done on the basis of what we define as a disaster.

Now, in looking at the workbooks that are provided as a guideline to farmers coming up with their expectation of payment on this program, the guidelines that we get from the department of agriculture, from agriculture financial services, right now mostly from the minister's office as this program is being developed, kind of define what we see now as an income disaster in the context of a reasonably lucrative payout process, even though the conditions under which an applicant qualifies are really quite restrictive and it's really quite unlikely that farmers will actually be able to make a claim.

Mr. Chairman, it was interesting. I was talking to an individual in the past week that had gone through the process of looking at how this was going to affect their operation. They were in a situation where because it was a family operation and there were three family members involved in it, there was some trade-off in terms of the shares of the revenue and expenditure patterns of the corporation so that some transition could be worked out in terms of the rollover of the farming operation from one generation to the next. What we ended up with was basically that the payment eligibility, because of the way the partnership was put together, was very inequitable in terms of who could get anything out of the program.

The other trigger that was unique to this situation was quite interesting. When they went through the calculations with their accountant – and this is, I think, something that is going to have to be really looked at in a severe disaster situation. As they looked at this program with their accountant, what they found was that because of the severe reduction in the price of livestock, their beef operation, their fat cattle income, they ended up triggering

the formula that works within the program to say that they've actually decreased the size of their operation. So in essence they were being disqualified from the program because all of the size reduction triggers kicked in and said, "Well, you've had a size reduction; you haven't had an income reduction."

Now, this needs to be explained more clearly so they can understand the calculations. When I worked through it – and this was done over the phone with them – I couldn't tell them where they had made a mistake in the calculation. So I would suggest that the minister look at that part of it and make sure that in a year when there's a severe reduction in income, it doesn't trigger that size reduction formula, because it's based on dollars, not in terms of physical components of the operation. Disaster here in the context of this program really has to take on a context of what it is when we face a disaster in agriculture.

Now, if I were a farmer who had 15 or 20 years of farming experience, a reasonably high level of equity, very little mortgage on my operation, most of the value that we see calculated into that margin is really the farmer's disposable income. It's their return to their labour; it's their return to their equity, which is the majority of their equity. They've got a very small interest payment if they happen to have been farming long enough. I know a number of farmers, Mr. Chairman, that are in this condition, where they actually have a bank account that they use as an operating loan, not a bank loan like beginning farmers would. So essentially what their margin is is almost all their return to disposable income, disposable income in their pocket. You know, this is the money they use for their winter in Florida. This is the money they use for their new car. It's the money they use to deal with the good things in life. It's not money that they use to support their farm operation. We look at this margin, and that's the part of their income that this program supports. It doesn't support the cash expenditures they use to buy their fuel. It doesn't support the cash expenditures they use to buy their fertilizer. It doesn't support the cash expenditures they use to actually operate their farm.

Now, Mr. Chairman, when we think of disaster in the context of what happens to a business in town or when we think of what happens to an individual, disaster strikes when you are subject to foreclosure by the bank. The bank is coming along and saying: "Look; pay up or you're out of your house. Pay up or we're closing your business. You can't cover your accounts payable."

Mr. Chairman, from what I understand of the FISP that was given to us in the manual that was distributed by the minister's office, this program doesn't cover that. This program covers income, the disposable income of the farmer. In all the consultations that the minister has done with farmers over this program, over the farm income stability program, the farm income disaster program as he calls it now, I'd like to ask the minister: how many times has anyone asked for something for nothing? This is another problem with this program: it gives farmers something for nothing. There's no sign-up for the farmers in this program.

9:50

MR. PASZKOWSKI: There's no administration cost in it.

DR. NICOL: There is \$50, Mr. Minister. You say that there's an administrative cost, \$50 after the fact. Why not put a constraint on here that says: "If you are going to have public dollars support your farming operation, if you're going to have the public come in and support you in a disaster when your income reduces by 30 percent, if that's what you want for public support, then you must be a responsible operator of your farm operation. You

must undertake reasonable expectations of risk management." That could include crop insurance. That makes farmers buy into this program. Before they can expect taxpayer dollars, they must undertake good risk management. They must have crop insurance for crops that are insurable.

Mr. Chairman, I don't think anybody questions the need for farmers who are raising crops that do not have insurance to have some kind of a disaster relief. These people are participating with full commitment in the minister's desire to expand and diversify our agriculture sector. They're undertaking new crops that don't have the history to provide us with the data that can support a crop insurance program. So what we've got is a situation where if we want to give public dollars to the farming sector, we should ask the farming sector to pay up first. I don't recall ever speaking to a farmer who said that they weren't willing to pay up, and crop insurance for the crop sector is a good way to do it.

Mr. Chairman, we can also deal with the livestock sector. There's a number of the livestock commodities now that have options for using the futures market to hedge back and forth, to future contract to deal with market certainty.

We saw a situation where for two years the experts were saying to expect a decline in cattle prices. Expect a decline in cattle prices. Now, maybe the experts said it too many times and farmers got to the point where they didn't believe it anymore, but the experts were saying that cattle prices were going down. Farmers looked at the futures market, they looked at the futures contracts, and they said, "Oh, we can still make some money." They bought in last year, and the market collapsed. Now they're in trouble. Well, when they had fair warning, when they had an opportunity to do something about it, is that disaster? Is that the disaster that we talk about in the context of a flood?

Mr. Chairman, last spring in southern Alberta, the floods. I have talked to a resident down there who at 8 o'clock in the morning called Disaster Services, and they told him, "Well, expect a one-foot to 18-inch increase in the level of the river today." Now, "today" to most people would at least be the sunlight hours of the day if not the 24-hour clock. That was 8 o'clock in the morning. At 10:30 the water was in his house. By 11 o'clock they were picking him off the roof with a boat. Now, that's disaster: he's not given fair warning. In the context of this Bill, when farmers are given warning about downturns in prices and they don't heed, is that a disaster? We're allowing them to say: yes, that's a disaster.

I think that we have a responsibility as legislators and as persons who are in charge of formulating good policy for the agriculture sector to look at an equitable and fair definition of what constitutes a disaster. I would challenge the minister to justify a 30 percent reduction in disposable income being a good disaster level. Mr. Chairman, it's very difficult to try and look at those kinds of situations.

In the context of a beginning farmer, where their disposable income is 1 or 2 percent of their margin as defined in this outline in the working documents provided by the minister's office, I really believe that is a disaster for those farmers. You know, a 30 percent reduction in that margin for a beginning farmer who is highly leveraged, who has obligations to the bank for their operating loan, that is a disaster. Now, we need to have some mechanism within the regulations and within the definition of this Bill that allows us to make sure that we're helping the farmers that need help, the farmers that are in a crisis situation, that are in a disaster situation. We can't create a disaster program just by putting in place the word "disaster." We have to look at how this is defined.

The structure of the Bill doesn't allow for very much leeway in

terms of defining the program under which Agriculture Financial Services are going to be given the option to make payments in respect of farm income disaster. Mr. Chairman, that is done outside of the purview of this Bill. We worked very hard with Legislative Counsel to try and define a disaster within the context of permissible amendments to this Bill, and in the end we decided today that the process we had gone through didn't really achieve what we wanted. We're going to leave it to the minister. We're going to ask the minister to truly look at what he's defining as a disaster in the context of this Bill, to truly look at it in terms of equity to all Albertans and the needs of the agriculture sector to come up with a good definition of disaster that doesn't support the disposable income of farmers. That is not disaster except, as I said, for the beginning farmer who's very highly leveraged, who uses their cash to support their bills.

THE ACTING CHAIRMAN: The hon. Minister of Agriculture, Food and Rural Development.

MR. PASZKOWSKI: Thank you, Mr. Chairman. I think it's important that I respond to some of the questions that were asked. Some of the interpretations that have come forward I think are fairly interesting, because I'm somewhat interested in knowing just what the Liberal interpretation of a disaster would be. It sounded very much like when you're bankrupt and the bank is moving in on you, that's a disaster. If that's the time that you're going to come forward with cures for the ailment, I'm afraid the door is closed and you might as well have left the farm. That's not exactly what we feel is the way of solving a problem where there is a problem that exists.

First of all, the questions that were asked on 52.1, farm income disaster. What's the definition? There are clear definitions of a disaster with the federal/provincial disaster program. If it rains one in 50 years, if it rains one in a hundred years, those are levels of disaster that are defined as far as rains are concerned. Indeed, the disaster program that's been signed with the federal government does have some clear definitions as to what a disaster is all about.

Section 46(1). What's covered in 46(1) are indeed things like unpaid premiums, charges, interest on amounts that have been deferred. What happens when advances are made and not repaid? Why indeed should there not be interest paid on that? I can't understand why we can't have a process that allows us to go out and recapture the money that is rightfully the taxpayers' money. That's what that's all about, so I can't understand why we would be questioning that.

The process is not just based on dollars. There is an accrual process that allows – the hon. member mentioned that because the person had downsized partway through the year, he wasn't able to be involved in the program. That's not the case, because the process does allow for the accrual method whereby you inventory at the front of the year or at the end of the year. If you didn't do that, the program wouldn't work, because indeed you can play with the program. That's part of the strength of this program. It's not just the cash method at the start of the year, and then an inventory is taken at the end of the year.

10:00

Futures. Futures are great when the process is working and the system is working. You don't run into disasters when the system is working. You can project, and you can work forward. But what happens when you're caught? You've already made your purchase, and something goes against you. That's where futures

don't do you a lot of good. You haven't really been able to recapture what's happened in the real marketplace. When you're partway through, you're not able to operate in the normal process. It's great to operate on the regular process whereby you can buy futures. I've been involved in buying futures, and they work great when the system is working fine.

What's a disaster? We sat down over a period of one year, working with the agricultural industry in developing this program. I'm proud to say that through this program we're actually able to save the taxpayers millions and millions of dollars because we have a threadbare program here, and indeed the industry has co-operated very well in developing a threadbare program. The farmer himself picks up the full amount of the first 30 percent. That's a major challenge. The farmer is able not to recapture expenses: things like clearing, interest payments, property taxes, rent, machinery rental, non arm's-length salaries, optional inventory adjustment, mandatory inventory adjustment, capital cost allowance, and allowance in eligible capital property. Those types of things are allowed in the margins. Those are items that you have to pay over and above. That all doesn't enter into the 30 percent. He still has to cover that as well.

Now, where's he going to get that money from? What's he going to live off? How do you carry on with life? You've got to buy your groceries. You've got your health care expenses. You have to show a margin. If you don't show the margin at the end of the day, where are you going to be? You're bankrupt. To suggest that everyone should be bankrupt before we develop a program isn't very logical, is not very legitimate, and I wouldn't want to stand here and defend that type of process.

So overall this program is one that has been developed in conjunction with all the agricultural community. It's a program that saves the taxpayers millions and millions of dollars over other programs that are out there that the federal government was promoting, and it's a program that is going to be a threadbare disaster program. It's nothing more. There is no money to be made on this at the end of the day, but a person has to be able to continue with life. You have to buy your groceries. You have to continue buying clothes. You have to buy the bare essentials. You can't deprive a person of that. When you do, you've got a bankrupt farmer. If that's when you want to develop a program for, there's no need of the program. The guy's gone.

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

DR. NICOL: Thank you, Mr. Chairman. It's too bad the minister wasn't listening when I gave the example, because I explained that they didn't downsize. They had a reduction in income that triggered the downsize calculation. It had nothing to do with change in size. He was saying that they downsized in the middle of the year. That's not the example I gave.

Mr. Chairman, with respect to the comments I made in terms of the process of the legislation, the process of the Bill, I'd like to submit two amendments. I'd like them to be handled individually. I have four copies that have signatures for the desk and enough to go around.

On the pages that I just distributed, I have a large blank at the top. This is the one I was telling you about that we didn't quite get worked out the way we wanted to and couldn't put in the definition of "disaster." So that's missing there. What I'd like to do is take B and D and handle them together because they both deal with referring regulations to the standing committee. It's a

process of handling those two as one, but they relate to different sections of the Act if that would expedite matters for everyone.

THE ACTING CHAIRMAN: Okay. We will label amendments B and D as A1.

DR. NICOL: Okay. Then that would leave what is on this page as C as A2 if that meets with your satisfaction.

THE ACTING CHAIRMAN: Yeah.

DR. NICOL: Okay. I think most of the members have their copies by now, Mr. Chairman. Should I proceed, or do you want to give a few more minutes yet?

THE ACTING CHAIRMAN: Proceed.

DR. NICOL: Okay. Thank you, Mr. Chairman. The two amendments I've asked for, what you have now labeled as A1, both basically deal with amending the Act to allow for the regulations that are authorized by the Act to be sent to the Standing Committee on Law and Regulations. This basically provides for a degree of legislative concurrence with the regulations that have to deal with both the process of any recovery of compensation and the ideas associated with the appeal committee structure operation and general powers and duties of that appeal committee. So what we have under the first part of the amendment is a set of conditions that reflect sending to the standing committee those regulations which deal with the definitions, the recovery of compensation, and how the Lieutenant Governor in Council would propose to deal with any of the incidental authority and delegated power of the Ag Financial Services Corporation.

Mr. Chairman, we've dealt on a number of occasions with a number of discussions concerning the wisdom of trying to utilize the Standing Committee on Law and Regulations much more in terms of a public backstop or a public input process to laws and regulations. I don't want to talk on and on and on tonight about the merits of that and the reasons for it; I think every member of this House understands that quite well. So based on the commitment of the Alberta Liberals to make sure that the regulations are part of a public process, I'd ask for everybody's concurrence in making sure that this Bill follows the same practices we've been trying to suggest for all other Bills and that the regulations go to the Standing Committee on Law and Regulations. On that, I'll ask for concurrence.

[Motion on amendment A1 lost]

THE ACTING CHAIRMAN: Amendment A2, which is item C.

10:10

DR. NICOL: Thank you, Mr. Chairman. I'd now like to move amendment A2, which is listed as item C on the distributed paper. This is the amendment that I was speaking to in my general discussion on the Bill, where we were talking about a farmer not being charged interest on amounts paid to them in error by the Ag Financial Services Corporation when none of the fault falls back to the farmer. So what we've done is put forth an amendment that would basically say that interest on the amounts referred to in clauses A and B only takes over after the member is notified of the error.

Now, in reflection on the minister's comments previously about the error that occurred in terms of farmer participation in an

error, that's not part of what we're asking for here. We're asking for an exemption in the interest charge in those cases when the farmer is not aware of the overpayment, is not a participant in the overpayment, and the error is totally the fault of the Ag Financial Services Corporation. This excludes all things like unpaid premiums. It excludes a whole bunch of things like the ideas of charges that haven't been paid properly by the farm person.

This is basically a fair-play kind of situation that we're asking for here in dealing with the agriculture community so that they don't get caught and get surprised with a very large interest bill when two or three years down the road the Ag Financial Services Corporation finds out that there was a computer error or a calculation error on their part, totally, and now they're going back to the farmer. I think it's only fair that that kind of situation not fall back to the farmer, so I would ask that we deal with this, then, in the context.

Mr. Chairman, while I have the floor, if this amendment is not to the satisfaction of the minister and the members of the Legislature, the least we can do is make the interest rate they charge a little more reasonable. Prime plus 2 percent is far in excess of what most farmers pay for their operating loans. It's totally outrageous. It's almost usury when they start talking about that kind of a level of interest. Farmers don't deal with that kind of a level of interest when they're going to their own banks, so if we can't make this exception for farmers where we don't put in a charge on interest when it's no fault of their own that they owe money, then at least let's make it so that we have a reasonable interest rate, and let's have that prime plus 2 percent changed.

Thank you, Mr. Chairman.

MR. PASZKOWSKI: This is an administrative issue and certainly one that can be negotiated and can be negotiable, so ultimately I don't know why we have to write it in. If we do, then it would become hard and firm. I think that's something we'd like to leave the way it's originally worded and then negotiate and allow for the process to negotiate. So though I won't support the amendment, I certainly hear what you're suggesting, and that's something that can be put into the negotiating process.

DR. NICOL: Given the minister's comments about it, I ask also, then, that he would make sure that this part of the issue is addressed in those regulations which define what a farmer can take to the appeal committee. That would be an equitable alternative if the minister won't support the amendment. Just make sure it's in the regulations which allow for farmers to appeal that to the appeal committee.

Thank you, Mr. Minister.

[Motion on amendment A2 lost]

THE ACTING CHAIRMAN: On the Bill itself.

The hon. Member for Lethbridge-East. Sorry; I missed you.

DR. NICOL: Thank you, Mr. Chairman. I just want to say that I guess this is a Bill that we now have to look at in terms of the approach it'll take to satisfying the needs of the farmers in Alberta. As the minister has said, he's consulted widely on this Bill.

I still have problems with his definition of disaster. I would like to suggest that the minister commit to a review of this program in a couple of years to make sure that it's meeting the needs of the farmers and that it's meeting the needs of Albertans.

We've got to remember that when there's a taxpayer dollar going out there, we've got to have input from the rest of Alberta as well as the farmers when we decide how these dollars are going to be transferred from the public to any sector, whether it's agriculture, whether it's small business, whether it's electronics, you know, or whether it's the NovAtels, the MagCans, or whatever. We've got to have public input on these things. So I would ask that as we support this Bill, the minister commit to a review of it in a couple of years so that we can make sure it truly is a disaster program.

MR. PASZKOWSKI: Certainly I have no problems with committing to a review. It's part of the process. We've indicated that right from day one: that indeed we would be reviewing it. It may even be reviewed before a couple of years. So I have no problems committing to that.

[The clauses of Bill 19 agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE ACTING CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE ACTING CHAIRMAN: So ordered.

Bill 28 Dependent Adults Amendment Act, 1996

THE ACTING CHAIRMAN: I notice that the hon. Member for Calgary-Buffalo is standing at his place.

MR. DICKSON: Mr. Chairman, I just want to confirm: is it Bill 28 we're dealing with at this time?

THE ACTING CHAIRMAN: Yes, it is. Go ahead, sir.

MR. DICKSON: The observations that had been made the other day when this came forward for debate – I think it was just very recently the matter came up. The suggestion at that time had been that the Member for Olds-Didsbury may want to consider some revision.

The items that were specifically identified for change would be these, Mr. Chairman. There was a provision, which I'm just trying to locate now. I think the concerns had been in terms of review of a guardianship order in section 6 in this Bill, which amends section 8, and attempting to deal with that; section 10, which amends section 22, an "application for an order appointing a trustee"; and then section 14 amending section 27(2), review of a trusteeship order, and an attempt to harmonize this to a greater extent. As the last words I remember, I understood the Member for Olds-Didsbury said that he was going to review that. I was expecting that when Bill 28 came back, that member would stand in his place and respond to those questions that had come up at second reading. I'm not sure what we're to infer from the fact that Bill 28 is back this evening and that we still don't have that response.

For that reason, Mr. Chairman, I'd move that we adjourn

debate at the committee stage on Bill 28.

THE ACTING CHAIRMAN: The hon. Member for Calgary-Buffalo has moved that we adjourn debate on Bill 28. All those who agree, say aye.

SOME HON. MEMBERS: Aye.

THE ACTING CHAIRMAN: Those who oppose, say no.

SOME HON. MEMBERS: No.

THE ACTING CHAIRMAN: Defeated.

10:20

MR. DICKSON: Well, Mr. Chairman, what's one to make of the position of the government that refuses to respond to legitimate concerns and questions that have been raised even after the concerns were prefaced with the observation that the opposition was supporting the Bill? It's a curious approach to lawmaking that you attempt to stampede through or buffalo through a piece of legislation that's as important as this one is without providing responses to questions that have been raised. Now, one may well ask: what's afoot? Why is it that the government, knowing that a Bill is supported by the opposition, would refuse to respond to a simple question?

What's more interesting – and I don't have the *Hansard* reference here – is that I understood that the sponsor of the Bill was going to provide some information and do a check since the Bill was last brought forward. Now, we don't have the report from the minister. Maybe there's some other government member who is carrying in his hip pocket the response to the questions that had been asked last day. If so, I'd sure be interested in hearing that response. It just seems to me to be a sloppy form of lawmaking to insist on rushing the thing through without considering all legitimate concerns.

Once the Bill is passed, it becomes law and everybody is bound by it. Everybody who is in a position of having a dependent adult is going to be affected and bound by this, and it's too late after it becomes legislation. There may be those in government who say that the way you deal with that is if we've fouled up, if we've made an error, we bring it back in a piece of remedial legislation, curative legislation the next year. Well, that just seems to me to be really inefficient. It seems to be expensive. I'd would have thought the Government House Leader, who always makes so much of trying to reduce costs of the legislative process, would be the first one to ensure that steps are taken to ensure that when Bills come up for debate, the information is available and that all questions are asked.

MS LEIBOVICI: A point of order.

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

Point of Order Decorum

MS LEIBOVICI: *Beauchesne* 459. The hon. Member for Calgary-Fish Creek seems to believe that she's in her living room by her decorum in the Legislative Assembly at this point in time. I don't believe that feet on the table is part of the seating arrangements in this Legislative Assembly.

Thank you.

THE ACTING CHAIRMAN: Well, I appreciate the hon. member bringing this particular item to my attention. When I looked over there, I did not see any problems, and therefore I don't see a point of order.

Thank you.

MR. HAVELOCK: You're a sulking old bag; aren't you?

Debate Continued

MR. DICKSON: Mr. Chairman, I'm still trying to devise some creative means of eliciting a response.

MR. SAPERS: A point of order.

AN HON. MEMBER: He's not in his place.

MR. SAPERS: Mr. Chairman.

THE ACTING CHAIRMAN: Well, I'm sorry. You were not in your place.

MR. DICKSON: Mr. Chairman, I think I was making the observation that I'm not quite sure what a fellow is to do to get an answer to a question asked of the government.

MS LEIBOVICI: A point of order.

THE ACTING CHAIRMAN: The hon. Member for Edmonton-Meadowlark is rising on yet another point of order.

Point of Order Abusive Language

MS LEIBOVICI: And we might go all evening if the catcalls continue, quite honestly, Mr. Chairman.

THE ACTING CHAIRMAN: What is your citation, please?

MS LEIBOVICI: Standing Order 23(h), (i), and (j). The reality is that I am neither old nor a bag nor insulting. So I wish the hon. Member for Calgary-Shaw to retract the comments.

Thank you.

THE ACTING CHAIRMAN: Hon. member, I did not hear anything anywhere near that, and the hon. member is not in his place to respond. Therefore, I cannot see a point of order.

MR. SAPERS: Mr. Chairman, may I speak to the point of order?

THE ACTING CHAIRMAN: There is no point of order.
Thank you.

Debate Continued

MR. DICKSON: Mr. Chairman, I'll try again to make the observation that I'm trying to conceive of a means of eliciting a simple explanation from a government that is so determined to get Bill 28 passed that they're not able, they seemingly lack the capacity or the resolve to answer a simple question, a question which I understood the Member for Olds-Didsbury had said he would look into. I've asked to have the matter adjourned to be able to facilitate that since I don't have the benefit of the Member for Olds-Didsbury's advice. The government has refused the motion to adjourn, so we proceed.

I started off by saying that I would support Bill 28 and I'd recommend to my caucus colleagues to support Bill 28. Now my suspicions are aroused, and I ask myself: why is it that on this Bill the government would not be prepared to answer a question? What is it that is so secret and so prejudicial in Bill 28 that the government feels a full court press is necessary to get a Bill passed, a Bill that was only introduced a scant four or five days ago, if memory serves? I'm not one for believing and for trying to parade the horrors in front of the Assembly, but when I see the enormous haste that the government has to jam through a Bill that we've already said we're supporting, then I have to ask myself, Mr. Chairman: maybe there's something else in Bill 28 that escaped our scrutiny before. Maybe this is a Bill that we should be opposing. Maybe there's something in this Bill that the government wishes to keep out of the scrutiny of Albertans and certainly out of the scrutiny of the opposition.

The application for a trusteeship, the application for a review of a guardianship are roughly similar, and the question had been why we don't harmonize to a greater extent the two applications for a review. It makes sense that you'd want to simplify the process as much as possible. There are some similarities, and if the purpose of the Act is to make it simpler, it seems to me, just from looking at the two sections I referred to – section 6, which amends section 8, which is the review of a guardianship order, and then we have the review of a trusteeship order, which appears in section 14 amending section 27(2). Now, that seems to me to have been something that the government could have very quickly and easily given us a measure of comfort on. The fact that the government has elected not to do that suggests that we may have some further and other problems.

I'll take my seat, Mr. Chairman. It may be that some member can assist in responding to the question I've raised.

MR. DAY: Mr. Chairman, believing the Member for Calgary-
Buffalo that indeed the question was posed to the Member for Olds-Didsbury, the sponsor of the Bill, and believing that he did give an indication he would respond, I can see the quandary that members opposite would be in as the Bill is about to go to third reading. Obviously they would want an answer to that, so I will relay that message to the Member for Olds-Didsbury and at this point would then agree with the Member for Calgary-
Buffalo on that and move to adjourn debate on this Bill.

THE ACTING CHAIRMAN: The hon. Government House Leader has moved to adjourn debate on Bill 28. All those in favour of that motion, please say aye.

HON. MEMBERS: Aye.

THE ACTING CHAIRMAN: Those opposed, please say no.
Carried.

The hon. Deputy Government House Leader.

10:30

MR. EVANS: I move, Mr. Chairman, that the committee now rise and report progress and request leave to sit again.

[Motion carried]

[Mr. Clegg in the Chair]

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

MR. HERARD: Mr. Speaker, the Committee of the Whole has had under consideration certain Bills and reports the following: Bills 18 and 19. The committee reports progress on Bill 6 and Bill 28.

I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

THE ACTING SPEAKER: Thank you, hon. member.

All those in favour of the report, please say aye.

HON. MEMBERS: Aye.

THE ACTING SPEAKER: Opposed, if any? Carried.

[At 10:33 p.m. the Assembly adjourned to Wednesday at 1:30 p.m.]