Legislative Assembly of Alberta

Title: Wednesday, April 24, 1996 8:00 p.m.
Date: 96/04/24
head: Government Bills and Orders
head: Committee of the Whole

[Mr. Clegg in the Chair]

THE DEPUTY CHAIRMAN: I'd like to call the committee to order. Before I call anybody, could I have unanimous consent to Introduction of Guests?

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed, if any? Carried.
The hon. Member for Pincher Creek-Fort Macleod.

head: Introduction of Guests

MR. COUTTS: Thank you very much, Mr. Chairman. It gives me a great deal of pleasure to introduce to you and through you to members of the Assembly this evening a very good friend of mine from the beautiful historic town of Fort Macleod, a well-respected businessman and a Rotarian like myself, a gentleman who's in the city today. It's his first visit to the Legislature although not to the city of Edmonton. I'd like to introduce Mr. Trevor Norlin to you. He's seated in the members' gallery. I would ask him to please rise and receive the traditional warm welcome of the Assembly.

Bill 17
Financial Administration Amendment Act, 1996

THE DEPUTY CHAIRMAN: Okay. The hon. Member for Grande Prairie-Wapiti.

MR. JACQUES: Thank you, Mr. Chairman. We have an amendment that I'm introducing on behalf of the Provincial Treasurer. I assume it's being circulated at this time. However, prior to that, I did just want to deal very quickly with a couple of issues that were raised during second reading by the hon. Member for Edmonton-Manning. The first one was with regard to the motivation for the changes to the definition of Crown-controlled organizations. Primarily two reasons: number one is to make it more consistent with private-sector standards and, secondly, to therefore make it consistent with the handbook as issued by the Institute of Chartered Accountants; also is the test and the terms of the standards that are going to determine whether an organization extends what they call significant influence over another.

He also raised a question with regard to section 81.1, which deals with the sunset clause and why it wasn't proclaimed. I would point out that the enabling section was first introduced in 1993, and during and subsequent to the introduction of section 81.1 there were some issues that were identified that required more examination and consideration and hence the amendments by way of Bill 17.

In dealing with the summary of the changes in terms of section 81.1, first of all we have the deletion of the application of the section to Crown-controlled organizations, and as we stated before, we basically believe that would be unfair to other minority interests if the Crown unilaterally discontinued an entity. Secondly, discontinuance is clarified by specifying that only activities relating to the windup and dissolution of the agency can be undertaken after the sunset date and only with the approval of the Lieutenant Governor in Council. Also, it clarifies that gifts or bequests held by a discontinued agency must be honoured by the successor agency or the Crown. Lastly, a list of exemptions, and in summary those are entities which we the government believe should continue to operate without the requirement of a regular and scheduled review.

In that connection, Mr. Chairman, I trust that the amendment to Bill 17 has been circulated. The amendment is straightforward and basically adds to the exemption list that is proposed by section 81.1(9) and more specifically amendment A, which is amending section 8(6) of the Financial Administration Amendment Act. Effectively what it does is add the Surface Rights Board to the list of those exemptions. This is something that has occurred as a result of input by the minister of agriculture, and we feel it would be more appropriate that the Surface Rights Board be included under the exempt list.

With that, Mr. Chairman, I'll take my place and let other speakers carry on.

THE DEPUTY CHAIRMAN: You've all got a copy of the amendment, so I'm not going to read it.

[Motion on amendment carried]

THE DEPUTY CHAIRMAN: On the Bill itself, hon. Member for Edmonton-Whitemud.

DR. PERCY: Thank you, Mr. Chairman. With regards to Bill 17 three issues we'd like to discuss and one to focus on in particular. There is an amendment that will be distributed, and I will address the issue the amendment is dealing with as it's being distributed and then refer specifically to the amendment.

The first point is that this Bill changes the definition of a Crown-controlled corporation, and it makes it slightly looser. As it presently stands, there are only two Crown-controlled corporations subject to this definition. There is the old Chembiomed, and then there is the shell of Gainers. Well, at this stage, Mr. Chairman, rather than making the definition looser and moving away from the one appointed board member to the 20 percent rule, I think the definition should at the very least be tightened up.

Let me give you a classic example, Mr. Chairman. Presently the province of Alberta is a 40 percent owner in PSC, Payment Systems Corporation. Now, this is the entity that actually cuts the cheques, that gives us our salary. I do remember the Provincial Treasurer standing here saying: look; we're going to privatize the payment of these services. Privatization for the hon. Provincial Treasurer meant going into a joint venture and a 40 percent owner.

Well, given the current definitions it may actually fall under the criteria of the old definition. We're actually in consultation with the Auditor General about this. The bottom line issue: here is an entity 40 percent owned by the province of Alberta, Payment Systems Corporation, that is not being audited by the Auditor General. All you have to do, hon. members, is look at NovAtel, look at some of the scams at the University of Alberta hospital and the computer software business. If you don't have the Auditor General do an independent arm's-length review, things can occur that come back and bite you the next period.

So the amendment that we're proposing, that is being distributed, takes us back to the old definition. One board member. Now, there are four elements that are important in terms of

looking at a Crown-controlled organization. Part deals with whether or not the province has a financial influence, part deals with whether or not the government has members on the board. What the amendments do is in fact weaken the provision about participation, moving it from just one member to 20 percent or more. I believe that if we have one member on the board, we ought to review the books.

I bring up the case as well of Millar Western (Whitecourt). We have one member on the board, an assistant deputy minister. We certainly have a significant financial interest. Yet lo and behold, Mr. Chairman, the Auditor General doesn't look at it. So rather than going to a looser definition, we'd much prefer a tighter definition. We think the one that's in here of at least one member is sufficient. As I say, we're hoping that PSC will be caught in the net. For whatever reasons Millar Western (Whitecourt) is not caught in the net, and we think it ought to be.

So the amendment that is before you then proposes to go back to the old definition of Crown-Controlled corporation. I think all members in this House are well served if you have the Auditor General going through those books. Anything, then, that reduces the net and expands the size of the mesh, means that you're losing some fish; they're getting through. It will cause us problems down the road, lack of scrutiny. The Auditor General is doing a good job. I feel comfortable knowing that he will go through and review the books.

So, Mr. Chairman, I would urge all hon. members to support the amendment that has been distributed, and the force of that amendment is to take us back to the original definition.

8:10

MR. GERMAIN: The bottom line of the proposed amendments, Mr. Chairman, to the Financial Administration Amendment Act, 1996, in this particular area is to again indicate a disinterest or a lack of control on the part of the government in controlling corporations that are involved in government affairs to the extent that the relevant or designated minister appoints one or more persons to the board of directors. If it is deemed appropriate for the government to have sufficient control on a board to appoint one person, then this particular Crown corporation should in fact file and report under the Financial Administration Act as all Crown corporations do.

So I would like to join with the hon. Member for Edmonton-Whitemud in recommending to the Assembly that this amendment be viewed positively and that this Legislative Assembly not continue down that slippery slope of giving up control of Crown corporations. I am not persuaded, Mr. Chairman, by an argument that says that it will coincide with a chartered accountant's handbook, nor am I persuaded by the fact that that might coincide with business reality as what constitutes a minority shareholder.

We are not dealing with minority shareholders and minority directors here. We are dealing with Crown corporations, that are by virtue of their nature involved in the public good or the provision of public services, and we ought not to give up control in the manner that is proposed by this particular Bill. The amendment brings back that control to the government and does not otherwise torture the terms and conditions of the Bill which the Provincial Treasurer expresses some desire to pass.

Thank you, Mr. Chairman.

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

MR. SEKULIC: Thank you, Mr. Chairman. I rise to speak in favour of the amendment to Bill 17.

AN HON. MEMBER: You have risen already.

MR. SEKULIC: I have risen already to speak to the amendment to Bill 17, Mr. Chairman.

Mr. Chairman, one of the issues we often debate in here and discuss with some difference in opinion is the issue of accountability and transparency, and I guess responsibility ties together quite nicely, but when it comes to financial matters, there shouldn't be the amount of gray area that there has traditionally been. I know that as an Assembly we agree upon that one principle, that that amount of gray must be reduced. Well, here's an area, and I think quite by mistake this has been overlooked. This amendment is one that's positive, that looks to remove that little bit of gray which remains in the area of accountability.

When we look to what this amendment attempts to do, it's to retain the definition of a Crown-controlled organization, and the purpose is quite simple. I think my hon. colleague from Edmonton-Whitemud articulated it, but I just want to walk through it to ensure that there is an understanding on one of the key elements or the motivators for this amendment. The change in the definition of a Crown-controlled organization would have a significant effect on the accountability of government in Alberta.

The example which most readily comes to mind is, as my hon. colleague from Edmonton-Whitemud has put it, the Payment Systems Corporation, PSC. Those taxpayers that may be reading *Hansard* sometime later this week regarding this Bill will find that PSC is a payroll and accounts payable joint venture which became fully operational on February 21, 1995. The government holds 667 nonvoting preferred shares valued at $667,000, equal to a 40 percent interest in PSC. The government's shares are convertible to common shares and become fully participating and eligible for dividends after five years. As part of the agreement, two members of the board of directors of PSC shall be nominated by the government. Now, that's the understanding that we had in 1995.

In order to qualify as a Crown-controlled organization, an entity must pass a two-pronged test, Mr. Chairman, and the entity must first pass the board representation test. This used to be satisfied when "one or more" but less than a majority of the board members were designated or nominated by the Crown. Bill 17 as it currently stands aims to change this to "20% or more" but less than a majority.

The entity then must comply with or pass the second part of that two-pronged test, that being the administration of public money test. PSC clearly passes the second prong of this test by virtue of the government's 40 percent stake. However, it fails the first prong. It fails the first prong of the test in accordance with Bill 17's definition of Crown-controlled entity. Hence, PSC will not have to make its records public despite the government's significant financial interest. To put it more clearly for those who will be reading *Hansard*, despite the government's – not really the government's but the taxpayers' – interests, PSC will not have to make their records public. Now, there's a bit of a concern: a 40 percent interest that the taxpayers hold, yet they don't have access, and they don't have necessarily the same degree of accountability that they would have if the test were retained as it is, in status quo. Again, we see this government being in the business of being in business and not being accountable for such actions.

This is not an acceptable arrangement. If the government is going to have a significant financial stake in the services it is

privatizing, Albertans deserve to see how their money is being spent and by whom. The bottom line, Mr. Chairman, is that if we speak of accountability, if we speak of a responsible government, if we speak of a government aiming to remove that gray area and remove themselves from being in the business of being in business, well, here is a positive amendment which I would encourage the government members to accept. It's not a threatening amendment. I don't believe it changes the thrust of the Bill, but it does retain that degree of accountability which I think taxpayers in 1993 demanded of all of the members they elected, all 83.

With those few comments, Mr. Chairman, I will take my place and, once again, encourage all members of the Assembly to support this amendment.

DR. PERCY: To close debate on the amendment, I would just say the following. If the government thinks it's important enough to be actively involved in PSC as a 40 percent owner, then clearly the public has a right to know how the firm is being operated – is it being operated efficiently? – and to ensure that public moneys are not at risk. We hope, then, if we go back to the old definition, it will meet both prongs of the test in terms of the public moneys at risk and the board representation and that the Auditor General will look at the books. We think it's important. As I say, we'd really like the Auditor General to look at the books at Millar Western (Whitecourt). [interjections] The bottom line is that some of the socialists on the other side who like being in the business of being in business and don't want any scrutiny of those operations are starting to yap.

So we would think that if people believe in accountability, believe in transparency, they'd go back to the old definition of a Crown-controlled corporation, unleash the Auditor General and let him be the watchdog of public dollars that possibly are at risk.

I would urge all members to support this amendment.

[Motion on amendment A2 lost]

Point of Order
Voting

MR. GERMAIN: Point of order, Mr. Chairman. Do you have to be in your own chair to vote?

THE DEPUTY CHAIRMAN: Yes. No.

MR. GERMAIN: Could we have clarification on your last ruling?

THE DEPUTY CHAIRMAN: Hon. Member for Fort McMurray, the rule is that if it's a standing vote, you do. Because it was just a voice vote, we've never, ever had to say that you had to be in your seat. [interjection] I think, hon. member, you should talk to the hon. Member for Edmonton-Manning.

The hon. Member for Edmonton-Whitemud.

8:20 **Debate Continued**

DR. PERCY: There are two other elements, Mr. Chairman, of this Bill. The other deals with the issues of the sunset clauses, and my colleague from Edmonton-Manning has discussed issues related to the sunset clauses. The other deals with the application of the Regulations Act as it pertains to the EUB and those boards and in fact removes the force of the Regulations Act. On one hand, this is an entity that has now the ability to levy charges and collect fees. Our ability, then, to assess what is being done and to at least see the regulations as they come forward is now being hindered.

So there are a couple of elements of this Bill that do cause us concern, and I do regret that the amendment has been defeated. I would bring to the attention of the hon. members that there are these other provisions, as they relate to the Regulations Act, which they should be concerned about. Again, transparency is important, and since so much activity now takes place through regulation as opposed to legislation, we do have concerns about this section, but they're not sufficient to have us hold up the Bill.

THE DEPUTY CHAIRMAN: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you very much, Mr. Chairman. I relish and cherish the opportunity on this rainy Wednesday night to speak about Bill 17. Bill 17 seeks to amend the Financial Administration Act of the province of Alberta, and I can't think of a better Bill to debate on this rainy night.

Before I do that, at the request of one of the government members – I have received a request to ask the Chairman for clarification on whether or not you have to be sober to vote in the Assembly. Because I pride myself on being a man of great discretion, I will not mention the name of the government member that was directing the inquiry, but it was an issue that appears to have been raised, Mr. Chairman, and you may want to consider it in a formal written ruling at some point.

Mr. Chairman, this Bill is interesting because of what it doesn't include just as much as for what it does include. You'll recall that when the Financial Administration Act was first being spoken to, there was a peculiar section of that Act that was brought to the attention of the Assembly by members of the Official Opposition, and that is that the Provincial Treasurer does not have to be and is not bound by generally acceptable financing practices when he makes investments. Now, this was very interesting, because the hon. Member for Grande Prairie-Wapiti, when he introduced this Bill and introduced the rationalization for it, indicated that one of the reasons was to bring these amendments in line with current business practices. Well, I think, with respect, that it is a current business practice that investments should be made utilizing sound financial assessment and based on generally accepted financing and accounting principles. Yet we see in this particular Bill that the Treasurer reserves unto himself these very ominous and threatening words. Why are they ominous and threatening? Because they have cost Albertans some portion of a $32 billion debt in the province of Alberta. These ominous words are:

> Where the Provincial Treasurer is authorized to make investments in accordance with subsection (1) . . . the Provincial Treasurer may enter into agreements providing for
>
> (a) the lending of securities . . .
>
> (b) the delivery . . . of collateral . . . [in] securities . . . or letters of credit.

I want to say to the Legislative Assembly that also found in that particular section of the main Act is that the Provincial Treasurer does not have to be bound by generally acceptable financial practices. It seems to me that if we were going to make this Act enlightened, and one of the reasons for the amendments was to coincide with business reality, the government missed a wonderful opportunity to amend this Act further by requiring that all such investments made by the Provincial Treasurer comply with sound financial practices. So that particular issue is troubling to me and I know troubling to many people who blame at least some part of Alberta's $32 billion debt on mismanagement by the provincial government.

With that, Mr. Chairman, because I know there are numerous other people wanting to speak to Bill 17, I will take my place and allow others to enjoy the debate on this Bill.

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

MR. SEKULIC: Thank you, Mr. Chairman. Ever since we introduced the ability to bring our computers in, we're now multitasking in the Assembly, and I was caught multitasking. So I'll have to apologize for my tardiness in rising.

DR. TAYLOR: That sounds like something pornographic.

MR. SEKULIC: No, hon. member. It's nothing that can be construed as anything but responsible representation.

Mr. Chairman, I rise once again to speak to Bill 17. I'm a little bit concerned because even earlier this afternoon we had in debate of a private member's Bill members from both sides of the Assembly saying that it's amazing and quite surprising what this Assembly can do when the two sides, opposition and government, work together. I think we did a service to all Albertans this afternoon when there was unanimous passage of Bill 209. We see here in Bill 17 an attempt to do the same, but we don't see the same flexibility, we don't see the same, I guess, eagerness to work as a collective for the interests of all Albertans here. We see government resistance to opposition recommendations and suggestions. We don't see a member of government rising in defence against the recommendations being put forward by the opposition, but we hear, I would say, unanimous rejection from the government side of, in this case, the one amendment put forward by the opposition. I'm a bit concerned with that.

I would appreciate if the mover of the Bill, or any government member for that matter, would rise and speak to the comments put forward by my hon. colleagues both from Edmonton-Whitemud and Fort McMurray with some of the concerns that remain. We see all too often that after the passage of a Bill in this Assembly – I should more clearly stipulate. After the passage of a government Bill, we all too often see that Bill coming back for amendments. It's not amendments because the environment in which that Bill is now being enforced has changed, rather that there were weaknesses in the Bill upon its first drafting and its rush to move it and pass it through this Assembly. So I would only request here that some of these comments being put forward be addressed.

If in fact anyone in the opposition has overlooked something or perhaps not interpreted correctly, then the onus is on the government and all government members to point that out, not merely to reject. This is a place for debate, and I certainly would hope that that would occur.

Mr. Chairman, as I said in my opening comments in second reading of this Bill, I think this was an attempt to do some good, and I would hope, prior to voting on this at committee, that in fact we do have responses so that I as a member of this Assembly can position my vote in the interests of my constituents and in the interests of all Albertans.

So with those few comments, Mr. Chairman, I'll take my place.

[The clauses of Bill 17 as amended 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? Carried.

8:30

Bill 20
Fuel Tax Amendment Act, 1996

THE DEPUTY CHAIRMAN: The hon. Member for Medicine Hat.

MR. RENNER: Thank you, Mr. Chairman. At the outset I would like to ask that a House amendment to Bill 20 be distributed. I'll deal with the amendment at the conclusion of my remarks. In the meantime, I would like to address a number of the issues that were raised during second reading of this Bill.

There was a question asked by the opposition on the rationale and the reason for the changes to the offences and penalties portion of the Bill. The answer to that deals with a couple of issues, not the least of which is that up until these amendments were introduced or when they become law, the offences for marked fuel, for purple gas, accrued to the province. Through this amendment those offences – and they are $150 tickets – will accrue to the municipality, and it's hoped that there might be a little bit more enthusiasm on the part of the municipalities to enforce those marked fuel offences and again ensure that the proper taxes are paid on fuel consumed within the province.

The other issue that was discussed dealt with assessment, and the Fuel Tax Act already allows assessment at any time in cases of fraud or misrepresentation. The provision for this shows up in the Bill because we redid the assessment sections. The provision for assessment at any time in the wake of misrepresentation was merely edited and moved within the Bill but is nothing new to the Bill itself.

The other issue discussed at some length during second reading was the clarification of the rules regarding rebates for refrigeration units, reefer units as I referred to them in my original comments. I want to re-emphasize to all members that this Bill does not create any new taxes with respect to reefer units. It clarifies that rebates shall not be paid on reefer units. I think it's important that everyone realize that the companies that have applied for these rebates have done so just in recent time. Since the inception of the Fuel Tax Act, when these rebates became available, the companies have been building the cost of all fuel, including taxes, into their costs, which they're in turn passing on to their customers. So it could, I think, legitimately be argued that should these rebates now be paid, as is the request, this could in fact be considered a windfall revenue to the trucking companies who have built that cost into their overall base. I think a legitimate question might be asked of these firms: if they were to be successful in their challenge of this law, is it their intention to refund to their customers for the past nine years a prorated share of this rebate?

Mr. Chairman, the business I have been in until very recently deals in perishable product, and over the years we have paid a lot of money out to trucking firms who have hauled our perishable product. I know that the total cost of the fuel used to power the refrigeration units was included in the costs that were charged to me as a customer. So I think it's important that we all understand that this is a clarification of existing legislation.

I would also point out that the administration of the Act has been consistent with the stated policy since its inception. No fuel tax refunds or tax exemptions have ever knowingly been provided for fuel used in on-road reefer units. Refunds have been paid on

fuel used for off-road, including fuel used in reefer units. Oftentimes from a point of view of temporary storage a business or an individual might use a refrigerated trailer for off-road storage. In that case, it's very clear that that use would be eligible for a rebate. But when that trailer unit, the reefer unit, is for on-road use, since its inception the Bill has been administered very much in a consistent manner such that those uses of the fuel are not eligible for a rebate.

Now, with respect to the amendment, which I assume now has been circulated, I would at this time like to move the amendment as circulated. Then I would be prepared to discuss the amendment, Mr. Chairman.

THE DEPUTY CHAIRMAN: Hon. Member for Medicine Hat, I think that it has been distributed, so are you going to go ahead with your amendment?

MR. RENNER: Thank you. This amendment refers to the reference to LPG, or propane, within the Bill. There has been some discussion, and I think it can be argued that in this particular case an argument could be made that this is a new tax. The way the tax on propane is administered, it's not done in the same way as it is on other fuels. So to clarify the situation and to make it very clear that the intention of this Bill is not to introduce any new taxes, the effect of this amendment is to delete reference to LPG, or propane, within the Act, and it will maintain that LPG be assessed in the same manner as it always has been under this Act.

AN HON. MEMBER: What about the other amendment?

MR. RENNER: One is consequential to the other. They should be dealt with together. Section 4(b) is struck, which is a reference to propane, and in B the reference to liquid petroleum gas is struck. It shows up twice.

THE DEPUTY CHAIRMAN: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you very much. Speaking to the amendment with respect to the position taken by the hon. member, I must respectfully disagree. Section 4(b) of this particular Act was a direct and deliberate attempt by this government to charge a .09 cent per litre fuel tax on that fuel that is consumed in the refrigeration of vehicles as part of their transportation of perishable goods.

Section 4(b), the first amendment, amendment A that the hon. member proposes, strikes out that ability to charge that litre tax on that particular fuel used for that vehicle. That has nothing to do with liquid petroleum gas, LPG, which is the subject of amendment B.

As a result, these two amendments, Mr. Chairman, do not stand together. This I'm sure will lead many hon. colleagues to speak to this issue, because I remember that it was raised with some persuasive aggression in this Legislative Assembly that we did not want this litrage tax to be charged on the transportation of perishable goods, almost all of which are foodstuffs and food supplies.

This is particularly important for people who get their food supplies by long distance, such as the people who live in Fort McMurray, Alberta. Indeed, it should be important to the people who live in Grande Prairie, Alberta, and to their Members of the Legislative Assembly. It should be important to the people who live in Medicine Hat as well and indeed everywhere, because we live in a cold climate and there is much perishable food that is transported by way of truck.

8:40

Now, by removing this section, I take it that what the hon. member is saying is that he is attempting to put to rest the constructive and valid criticism that came forward that there should be no fuel tax charged on the fuel consumed in the refrigeration unit. I think that is what that amendment does, and if the hon. member confirms that is the intention of his amendment, then I think I and many of my colleagues here will support that, because that was raised as an issue. But the two issues are not together, Mr. Chairman, so what I'm going to do, with your kind permission, is that I will speak to amendment 4(b) at an appropriate time later, after others have had a chance to talk about the issue of this government's attempt to tax the very fuel used to preserve food as it travels to northern communities such as Fort McMurray.

It is, I think, very admirable that the hon. member was persuaded by the opposition concerns in this area and that he has altered his views on the Bill on behalf of the Provincial Treasurer. I understand that other hon. members of this Assembly will later bring forward further amendments that will preserve the right of those truckers who take exception to this issue, to make those comments at a later date. But to the extent that this first amendment apparently removes the litrage tax on fuel used in refrigerating units, the minister should be commended if that is indeed the intention and what the member is attempting to put forward. I hope it is.

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

MR. DUNFORD: Thank you, Mr. Chairman. I, too, am somewhat confused by the amendment. I have to confess that I'm coming into this debate late, in the sense that I was not here at second reading to talk about the principles of this particular Bill, but I've had some discussions with reefer truckers in my particular area. They feel very strongly that to tax the fuel that's used in the motor, which is in a separate tank to drive that reefer motor, is inequitable. It's not very often that I disagree with any of the comments that are made by the Member for Medicine Hat, but he talked about how this had been in place, how very few rebates had been asked for, and that maybe it was a nonissue.

I think the point is, though, that what we have seen since deregulation in this province has been severe competition, and truckers all over this province are looking for ways in which to reduce their costs and actually have passed this on to the customers. Freight rates are not as high as they were in previous years, and the only way many of these independents can last in business in Alberta is to have at their disposal as level a playing field as they can. In this situation, just to indicate how I read what is happening here, if on Highway 2, a twinned highway, we had two trucks rolling side by side and one was – and I'll use an example of a very fine firm out of Lethbridge, which is H & R Transport Ltd., and they have reefer units. So it's traveling down the road right beside a truck with dry freight in it, and again I'll use a very good Lethbridge firm, which is Fernie Cartage Ltd. The two of them are driving down the road. They're using the highway at the same time. The fuel tax is there in order to compensate the government for the use of those highways, yet H & R Transport

is paying more tax per kilometre than what Fernie Cartage is. So I really believe that this has to be something that's looked at.

Now, if in fact the administration of a rebate and that sort of thing is too onerous for the government of Alberta, then I would suggest an alternative. I haven't prepared an amendment, but perhaps this is an amendment that others might look at while we're in committee: simply to allow them to use purple gas in the reefer unit.

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

DR. PERCY: Thank you, Mr. Chairman. Two questions, then, to the hon. Member for Medicine Hat. Since much of this Bill deals with the international fuel tax agreement, do any of the provisions of the Bill as they relate to reefer units tie in in any way with our obligations under the international fuel tax agreement? The international fuel tax agreement is a good agreement in that it does cut down on a lot of duplication and means that truckers only have to file with one jurisdiction. So I guess my first question to the hon. member is: is this lock, stock, and barrel of obligations required of us to harmonize under IFTA? I don't think so because this was put in place in '87-88.

[Mr. Herard in the Chair]

The second is – to the extent, then, that I understand the amendment – the force of the Bill as it would stand if the amendment is passed is to preserve the status quo and still, for example, have reefer units taxed that are fuelled by diesel. That's my understanding. This just takes out the one new fuel source that makes it look as though there's an increase in taxation. So the two questions are: is this in any way related to IFTA? I don't think so. Second, is the force of the amendment, if passed, basically to preserve the status quo and not expand the tax net further?

THE ACTING CHAIRMAN: The hon. Member for Medicine Hat.

MR. RENNER: Thank you, Mr. Chairman. I would like to clarify and once again explain the reasons for proposing this amendment. If members will look at their copy of the Act itself, which is on the right-hand side currently, the Fuel Tax Act reads, looking on page 2, (1.1):

> Subject to this section, a consumer shall pay a tax to the Provincial Treasurer at a rate of $0.065 per litre on liquid petroleum gas purchased by him for use as motive fuel.

So what it's saying is that presently there's a 6 and a half cent tax on propane used as a motive fuel.

The Bill would then have amended the Act by adding the words in 4(b): "or as the energy source for regulating the temperature in a trailer designed for the commercial transportation of goods." So by the implementation of this amendment and deleting 4(b), the Member for Edmonton-Whitemud is entirely correct. It's status quo. There will not be a tax assessed for propane used in reefer units. In the B part of this amendment that comes in on page 5, it again further clarifies that propane used in reefers will be subject to tax. Again that is deleted. Status quo remains in place.

Now, with respect to other fuels the situation is significantly different. Right now propane is sold on a two-tiered price system, one tax in and one tax out. It's somewhat confusing, and it's one of the reasons we're looking at revisions to the Fuel Tax Act down the road, to clarify the situation. Right now there's a two-tiered system for the sale of propane. You pay one price if it's for a motive fuel; you pay another price if it's for heating or running a pump or an irrigation system or something like that.

The same is not true for other fuels that are used. Diesel fuel, for example, that's used to run a reefer: there is not a multitiered price system in place. The price is the same. You go to the pump and you fill up and you pay the same price. Truckers have always paid the same price for diesel fuel. There are provisions, then, within the Act that say that if the fuel is for use off-road, then it is not subject to tax and you can apply to the Provincial Treasurer to get a rebate on the tax you have already paid.

The clarification in here is that that rebate is not accessible for when the fuel has been used in a reefer unit on the road. You can apply for the rebate if the reefer is parked off the road, but if it's used on the road, you don't receive the rebate. There is nothing to do with competitiveness. Everyone pays the same rate across interprovincial lines. Most of the other provinces also do not have a two-tiered price system for taxable fuel used in reefers. So this is clarifying once again the way that the Act has been administered since day one. It's just making it very clear that on-road use is taxable and off-road use is not taxable, and if it's not taxable, it's eligible for a rebate.

8:50

THE ACTING CHAIRMAN: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you. Mr. Chairman, there doesn't appear to be much disagreement, but there does appear to be some confusion as to the implementation. I heard the hon. Member for Lethbridge-West say that he doesn't want the fuel expended in controlling the temperature of a temperature-controlled transportation compartment to be taxed, and I think most Albertans would agree with that given the harshness of our climate, the distance that we are from many of our food supply sources, particularly in the winter months, and particularly those constituents in ridings such as I represent that already pay horrific transportation costs to get their daily bread and their other staples and necessities of life.

This entire set of amendments, first of all, Mr. Chairman, created another tax. I think the hon. member has to start with that plateau, that there was a creation here of another tax, which he has now attempted to rescind with the amendments. So let's start at first at the principles.

There was going to be a tax. It's off now. That's fine as far it goes, but that assumes that the liquified gas is separately induced into the refrigeration unit so that it can be metered at the lower price. If in fact the unit is taking the fuel out of the compressed high-pressure tank in which the fuel is being used so that they're buying the fuel not at the low price but at the high road-tax price, then in fact there is no provision in this section to apply for a rebate and there in fact is a taxation without a corresponding break, because you're assuming that when the person fills up with the liquified gas, he's got a separate container that he can take on at the lower price.

My understanding – and I don't claim to be a mechanical engineer – is that they're drawing this fuel source from the very tanks that have been subjected to the higher price. If the member can assure me from a scientific basis that that isn't the case, then I'm happy, but if it is the case, what happens, then, to those individuals? How do they get their rebate when the section has now been removed that they can no longer get a rebate? If in fact

there is any possibility that some truckers will now lose the ability to get a rebate because of the nature of the fuel they burn, then I agree with the hon. Member for Lethbridge-West that we should be cautious about this.

If the hon. Member for Medicine Hat can assure me that my science is bad, that there is no unit of this type at all that does not have one singular fueling source or that it does not transfer fuel from one container to another so that you could have the fuel inserted into the vehicle at the high level, then I would have no problem with his theory. His theory makes sense. But have we in fact, by our desire to do good here, disentitled a group of transportation haulers from a rebate based on the fuel they use because we now have pre-empted one group's ability to apply for a rebate? That, hon. member, is the concern that I have, and if I articulated it badly the first time and I unduly upset the Member for Lethbridge-West, then I stand corrected. I think the Member for Lethbridge-West summed up the views and attitudes of a lot of us: we do not want prejudicial taxation.

The fact is that over on this side of the Legislative Assembly, hon. member, we want less taxation, but what we are going to have we do not want prejudicially imposed on one group and not another.

MR. WOLOSHYN: You want a sales tax.

MR. GERMAIN: I see the hon. member, the once member of a socialist party now sitting as a government private member, hollering about sales tax, that he wants more sales taxes. Well, the Alberta opposition has always opposed sales taxes of every kind. I recognize the merit to the debate, that what we are discussing here tonight is sales taxes. But let's assume for a moment that the government, by virtue of its majority, is going to pass this Bill which deals with sales taxes on fuels, and let's deal with the inequities, then, in speaking to this amendment.

Those are my comments.

MR. RENNER: Well, I'll be brief. My understanding is that there are very, very few units used that are actually fueled by propane, and of those that do use propane, the majority of them are used for heat, not for refrigeration. So you'd have a three-ton truck with a box in the back, and the propane would be used as a propane heater. They're rarely used as a refrigeration unit just because they're not as economical as diesel or one of the others.

The member asked: can I guarantee that there is no vehicle on the road that does not use the same fuel to drive the vehicle as it does to control the heat in the back? No, I can't guarantee that, but the number of units that use propane is extremely small. The dynamics of it is that for highway vehicles a propane powered vehicle is not the norm. It is not practical to use a propane-powered vehicle on the highway. So if there is propane being used in the reefer unit, in the refrigeration unit, it very, very likely is not the same type of fuel that is used to drive the unit, because the unit itself is either diesel or gasoline, more than likely diesel.

THE ACTING CHAIRMAN: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you very much. Mr. Chairman, the regulation allows a rebate if temperature is controlled. I've used refrigeration unit because that's quite common and typical, but in fact even if it is a heat-inducing mechanism, it is a temperature control and is entitled to the same rebate, and we are now removing the rebate from that area. So, hon. member, the other part of your argument about the limited number – it seems to me that if there is even one truck driver in Alberta that we are prejudicing by this legislation, we should look after any prejudice at any level no matter how insignificant it is.

What I would suggest, hon. member, is that, with respect, you ask us and recommend that we vote for section 4(b) but that we vote against your amendment B so that the liquid petroleum gas will stay in the section that will still give rise to the rebate if the person can otherwise qualify, and to qualify he has to show he's paid the tax and that the gas has been used for the temperature control of his substance.

I don't think your amendments necessarily do lockstep together. I think they can be forward and futuristic thinking. Your first amendment makes clear that you do not intend to charge the tax on temperature control fuel. Your second amendment will basically say that if you do charge the tax – because the precursor has to be that the tax has been paid. So you can actually accomplish the best of both worlds by urging the House to vote to support your section A and withdrawing your second amendment. Then that simply leaves liquid petroleum gas in as a fuel that is entitled to apply for the rebate if the triggering conditions exist.

We don't know what direction vehicular transportation and the economies and mechanics will take in the future, so I just leave that as a suggestion to you, as a friendly suggestion. I think everybody in this Legislative Assembly does not want prejudicial taxes imposed on the fuel that is used to temperature control the enclosure of a transport mechanism. That's all I say, and I can't say it any other way. I urge the members of the Assembly to definitely vote against amendment B because it takes away potential protection for truckers in the province of Alberta.

[Motion on amendment A1 carried]

AN HON. MEMBER: They're together? They're not together; are they?

THE ACTING CHAIRMAN: Yes. We were voting on A and B.

AN HON. MEMBER: On both? You said A.

THE ACTING CHAIRMAN: No, A1, but it was intended to be voted as the entire amendment.

The hon. Member for Edmonton-Whitemud.

9:00

DR. PERCY: Thank you, Mr. Chairman. The other issue I'd like to discuss in this phase and ask the hon. member bringing it forward is the harmonization that's envisioned and implemented by this Act, the harmonization of our legislation with the international fuel tax agreement. As I understand it, in fact the provisions of the international fuel tax agreement will have precedence over our own fuel tax legislation. On one hand that makes sense, because the payoff to being a participating member of the agreement is that any trucker in this province only has to file with one jurisdiction. The alternative is truly horrific, particularly for long-distance truckers. So I do realize that there is a significant savings to truckers from our participation in IFTA.

I guess my concern is the actual administrative process: some discussion of the institutional structure, how votes are made, what say the province has. Long-distance trucking is particularly important in the province of Alberta since so much of our

produce, so many of our products are hauled in by truck. In fact, as railways seemingly priced themselves out of the market and we turned increasingly to long-haul trucking, the institutions that regulate through the international fuel tax agreement – I think it's important that we have on the record actually how IFTA works, how the province has a say, and what the process and procedures are for flagging changes. How does the trucking industry actually learn what changes are in the agreement? What type of notice is given? Essentially, how do the stakeholders – the truckers directly, but for that matter legislators, MLAs in this House – know what's happening here?

Here we see many Bills that are basically shells. They provide a structure, and it's regulations that fill it in. At least we can go upstairs and get the OCs and get a handle on what's happening on occasion. By going through the *Alberta Gazette*, we can get a handle on some of the changes in regulations. But what happens, then, if IFTA changes the regulations? Who knows? How quickly do we know? Where are they published? How do people get a handle on what's going to happen? When IFTA does have precedence over any legislation in Alberta under the fuel tax agreement, what's the time line? Is there a three-month phase-in, a six-month phase-in? I'd very much appreciate any information from the member with regards to this issue of harmonization.

Under NAFTA we're increasingly harmonizing the environmental legislation, labour legislation. It makes some sense because that reduces red tape and just makes the rules of the game consistent across borders, but here the issue is: because of the precedence that the international fuel tax agreement may have on legislation passed in this House, I think it should be part of the record of the debate exactly how it works and what the issues are.

The second issue I'd like the hon. member to address is that of retroactivity. Although there is an amendment that is at the Table, I'll hold off circulating that because once I speak to it, I may not get my answers to the previous questions. I'll pop up in a minute or two with regards to the amendment, so I haven't actually read it in yet. The issue of retroactivity is also very important. The member has said that with the original legislation in 1986-88, in the intent and the structure of the debate in the House at the time the Bill was passed, the sense was that reefer gas on-road would be taxed, if you look at the debates. But it's clear that there is some ambiguity with regards to the Bill, and if there is in fact ambiguity, I always feel far more comfortable if that ambiguity is dealt with head-on in the courts rather than retroactively imposing the rules of the game. So I would also very much appreciate some response from the member in that regard.

In this regard I will now introduce the amendment that deals with this issue of retroactivity. I believe the amendment has been circulated. Again, the thrust of this amendment is to remove that clause, "even if an application for the rebate was made before this subsection came into force." The reason we are circulating this is because we feel if there is any merit to this case, it would be decided in a court of law, and that's perhaps the best way to do it. Because I must tell you that there were times here, Mr. Chairman, when I thought of Bovar and how it would be very nice to bring in legislation that was retroactive to remove and nullify an obscenity.

Unfortunately, once you start moving down that road of retroactively changing an agreement that you have made in good faith, where do you draw the line? It's always easy to justify the first step. I certainly might have taken that step with regards to the joint venture agreement, but again the principle is too important. I don't think we should ever legislate retroactively because it just makes for very unsettled rules of the game. It makes the whole issue of property rights far more ambiguous, because property rights are contingent on the legislative framework that sets out the rules of the game. So I feel far better if the courts adjudicate these types of issues rather than in fact the Legislature retroactively saying no.

I notice that the hon. Minister of Education is shaking his head on this. He, too, had brought in a Bill that caused me some discomfort, and it dealt with the funds that were taken from the Edmonton Roman Catholic school board that might have been allocated for a new administrative building. I viewed that as retroactive and opposed it on those grounds, just as I have concerns over this.

So I think the issue ought to be debated, and I think that's one of the reasons we have a court system. It may be high cost, it may involve some wear and tear, but on the other hand it sets out consistent rules of the game. Once a law is passed and there are ambiguities and some people have operated within that framework, then it's up to the courts to adjudicate and not for us to ex post come back in, because we should have drafted the laws properly in the first place.

The amendment, then, has been circulated. It in fact basically strikes out what I view is potentially a retroactive application of the law. I think we could let the courts adjudicate this issue, but again I would hope that the hon. member would provide us with a context for this particular debate so we can assess the amendment with full information.

Thank you, Mr. Chairman.

THE ACTING CHAIRMAN: Before recognizing the hon. Member for Fort McMurray, we will label this amendment as moved by the hon. Member for Edmonton-Whitemud as A2. Thank you.

Go ahead, hon. Member for Fort McMurray.

MR. GERMAIN: Okay. If we try to return, Mr. Chairman, to first principles here, we have a fuel tax, then we have a rebate scheme, and then the government attempts to define where the line is drawn in the sand as to when you get the rebate or you don't. The government then is upset with the direction that some of the truckers are taking by saying that the rebate applies on their fuel used even when they're running down the road in refrigeration. The government says: no, no, no; that was never the intention. So what they do is they come in with this section, this amendment that basically says "effective March 20, 1996" – never mind that we're already almost at the end of April – "no rebate except under [one section] may be granted for fuel oil", and then they go on to say, "even if an application for the rebate was made before this subsection came into force." Mr. Chairman, that is simply wrong. That is the retroactive affecting of somebody's rights that were obtained based on existing legislation as it existed at the time. That is almost like retroactively canceling someone's birth certificate. That is simply wrong. The hon. Minister of Justice, himself a member of the legal profession and a Queen's Counsel, should stand up in this Assembly and say that that is wrong.

9:10

AN HON. MEMBER: Say it, Brian. Say it.

MR. GERMAIN: Say it, hon. member.

DR. TAYLOR: Even members on his own side are asking him to say it.

MR. GERMAIN: The hon. Member for Cypress-Medicine Hat last year said that he was a bull shipper. Of course one hon. member questioned exactly what he had said, and he reconfirmed that he was a bull shipper. He knows something about the trucking business. These truckers have the right to have their day in court, and to retroactively take away the right to apply for a rebate is simply wrong. How will that sell in Athabasca-Wabasca? How will that sell in Camrose? How will that sell in Calgary? How, Mr. Chairman, will that sell in Medicine Hat? How will that sell in Barrhead-Westlock? Since when in this Legislative Assembly do we take away people's rights retroactively? Taxation statutes are supposed to be narrowly construed and construed against the taxing authority. In this particular case, by definition rebates should be construed liberally and in favour of the applicant who is applying for the rebate, because that is the flip side of a narrowly construed taxing statute. So I urge all members of this Legislature to support this amendment and to say once and for all that there will be no retroactive legislation in this Legislative Assembly.

What's the difference? If the Act passes, Mr. Chairman, the rebate question will be clarified for anybody after March 20, 1996. Why should we go after those people who felt for legitimate reasons that they're entitled to a rebate, entitled to their day in court? Why should we retroactively take away their rights? That is simply wrong. When I and other Members of this Legislative Assembly suggested that we treat some of the other contracts in this province that way, including Bovar, what was the answer? Oh, you'd be canceling a contract retroactively.

Well, the legislation is a form of contract with anybody who utilized fuel in accordance with its provisions. It is wrong to retroactively take away their right to prove they're entitled to the rebate. I urge all Members of the Legislative Assembly to stand up and speak to this amendment, to show some courage here, particularly those members on both sides of this Assembly who are practising members of the legal profession, because you know, all of you if you hold a law degree in this province know that society has always held in the highest level of abhorrence and disrespect retroactive legislation that changes rights after the happening of the event to which those rights were occurred.

What would happen, hon. members, if tonight some hon. Members of this Legislative Assembly were stopped and asked to use a breathalyzer and they blew .02 in the breathalyzer, which is only 25 percent of the allowable limit and well within safe limits, and then the government of Canada next week said that the limit was now down to 20 percent, so you were now guilty even though at the time you were operating under one set of rules? Put yourself in that particular position. Put yourself in the position of a parent of a university student who is told that he needs a 65 percent average to get in, and after he's accepted, they raise the entrance up to 80 percent and your student doesn't get in. What would he come home and say to you? He'd say: "Mom, Dad, I was accepted. I was allowed in, and now they've retroactively changed the rules." Hon. members, this is a very serious amendment.

I want to take a moment on the record to personally congratulate and commend the hon. Member for Edmonton-Whitemud, who is an academic scholar but who has never claimed to be legally trained. Yet here he is, this man of academic scholarship, showing us the way and doing it for the lawyers . . . [interjection] I urge all hon. Members of this Legislative Assembly to speak in support of this amendment or else tonight when you go home and look in the mirror, you will have to ask yourself: why did I take the trucking profession in this province and single them out for retroactive retribution? What rationalization could I have ever given for that? When that very argument was raised, when the Bovar issue was before us in the Legislative Assembly, the hon. Member for Calgary-Shaw said we couldn't retroactively tamper with that contract on a legislative basis. Why, if we couldn't retroactively tamper with that contract that cost Albertans $500 million, can we tamper retroactively with the legitimate claims of truckers that are advancing a cause for a legitimate rebate? They may be right, they may be wrong, but surely we want to give them their day to be heard.

THE ACTING CHAIRMAN: The hon. Member for Medicine Hat.

MR. RENNER: Thank you, Mr. Chairman. I don't know how I can make it any clearer than I already have tonight. I've spoken to this twice already, I believe. This is a clarification of something that has been in effect since 1987, when the Fuel Tax Act was originally passed. It has been administered thusly ever since 1987, and for the information of members I would like to read from a government brochure dated May 7, 1987, from Alberta Treasury. It says:

> How to Apply for Off-Road Exemption
>
> Eligibility for the off-road users' exemption is subject to review by Alberta Treasury, Revenue Administration. To qualify, fuel purchasers must first file a declaration with the department. Declaration forms are available from bulk fuel dealers and Alberta Treasury. The department then issues a Fuel Tax Exemption Identification Number, which must be recorded by fuel suppliers before any purchase of marked fuel. Suppliers must clearly indicate the fuel tax exemption on all invoices for marked fuel purchases. Audits are conducted to ensure purchasers and suppliers comply with the AFT legislation and regulations.
>
> Eligibility for Alberta Fuel Tax exemptions or rebates is fully defined in the Alberta Fuel Tax Act and regulations. If there is any conflict between the legislation and the information in this pamphlet, the former will prevail.

It has been very clear right from the very beginning that the only fuel eligible for rebate is off-road use of fuel. The reason the rebates are necessary is that in some cases vehicles are used sometimes on the road and sometimes off the road. In those cases, they are not allowed to use marked fuel, purple gas. So when a vehicle is used on the road some of the time and off the road some of the time, they must use clear gas, tax-in gas, and then they're eligible to apply for a rebate.

In this particular case, it clearly does not apply because right from the very beginning it has indicated very clearly that the only vehicles that are eligible for rebates are those that are used off the road. The law is being applied just as that right now. Reefer units that are used off-road are eligible for a rebate; reefer units that are used on the road are not eligible for a rebate. There is no retroactivity because the tax has been paid all along. No rebates have ever been paid. All this merely does is clarify that rebates will not be paid in the future either.

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

MR. COLLINGWOOD: Thank you, Mr. Chairman. I've been

listening intently to the debate. The Member for Medicine Hat's response to the commentary from the Member for Fort McMurray was entirely predictable, that the government would say, "That's the way it's always been, and while there may be some confusion and some ambiguity, that may be what we meant, but it may not necessarily be what we said." My response to the Member for Medicine Hat is that if he is so sure that the government was correct from day one and that there is not and has not and never will be the payment of the rebate for on-road, then let those individuals have their case heard, let that adjudication be made, let that decision come forward, let it be used in that process rather than, hon. member, hitting them over the head in your legislation by saying that the section that we're dealing with, section 5(c), will be retroactive to the very beginning.

9:20

There is no reason, as my colleague for Fort McMurray has said, for the government to come forward once again with retroactive legislation. The Member for Fort McMurray commented about how it is that the government can in good conscience in this Bill once again attempt to impose retroactivity on a piece of legislation. Sadly, to the Member for Fort McMurray and all members of the Assembly, the government continues to ram retroactive legislation through this Legislative Assembly. We've seen it time and time again. Generally when we see it, Mr. Chairman, is when the government has been embarrassed by a situation and decides that the only way it can come out of that situation is to use bullying tactics to ram retroactive legislation through this Assembly.

The Member for Fort McMurray has indicated – and I concur entirely with his comments – that it is unfair, that it is inappropriate, that it is prejudicial to those individuals who have in good faith read and attempted to understand the way it was, applied for the rebate, and are now waiting for an adjudication of whether or not that rebate is appropriate or inappropriate. The Member for Medicine Hat says: absolutely no way, and that's been clear from the very beginning. Fine. Make your argument to those individuals in the courts; don't make your argument to us in the Legislative Assembly by shoving retroactive legislation down the throats of those individuals who will now not have an opportunity to have their case heard because of the government's attempt to use this against those individuals to eliminate their claim, to eliminate their rights, and to use this heavy-handed tactic to eliminate that ability of those individuals to make their claim.

So, Mr. Chairman, I speak in favour. I also thank the Member for Edmonton-Whitemud for bringing forward this amendment and once again exposing the government using the heavy-handed tactic of retroactive legislation against a group of Albertans, in this case, this time, the truckers of the province of Alberta. It's simply unacceptable.

THE ACTING CHAIRMAN: The question has been called on amendment A2 as moved by the hon. Member for Edmonton-Whitemud. All those in favour of the amendment, please say aye.

SOME HON. MEMBERS: Aye.

THE ACTING CHAIRMAN: Those opposed, please say no.

SOME HON. MEMBERS: No.

[Several members rose calling for a division. The division bell was rung at 9:25 p.m.]

[Ten minutes having elapsed, the committee divided]

For the motion:

Chadi	Germain	Van Binsbergen
Collingwood	Massey	Vasseur
Decore	Percy	Zariwny
Dickson	Sekulic	

Against the motion:

Black	Fischer	McFarland
Brassard	Fritz	Mirosh
Burgener	Havelock	Pham
Calahasen	Hlady	Renner
Cardinal	Jacques	Severtson
Clegg	Jonson	Shariff
Coutts	Kowalski	Smith
Day	Langevin	Taylor
Dunford	Magnus	Woloshyn
Evans	Mar	Yankowsky

Totals:	For – 11	Against – 30

[Motion on amendment A2 lost]

[The clauses of Bill 20 as amended agreed to]

[Title and preamble agreed to]

THE ACTING CHAIRMAN: Shall the Bill be reported?

SOME HON. MEMBERS: Agreed.

THE ACTING CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE ACTING CHAIRMAN: Carried.

The hon. Member for Medicine Hat.

Bill 21
Financial Institutions Statutes Amendment Act, 1996

MR. RENNER: Thank you, Mr. Chairman. I have two amendments that I would ask to be distributed at this time, and I'll deal with them separately. Before I get on to the amendments, giving the members an opportunity to have a look at the amendments, I would just like to deal with a couple of issues that came up again at second reading. I would like to address a couple of questions that were asked by members opposite at second reading.

First of all, there was the question as to whether or not the province will be able to enforce regulations where extraprovincial regulations don't suit Alberta. Mr. Chairman, the main principle of the amendments to both of these Acts is to focus the responsibility where it appropriately applies. Currently the primary jurisdiction does most of the solvency regulation, and Alberta's activities are duplicative. The amendments clarify accountability, allow streamlining of regulation for non-Alberta companies, and allow Alberta regulators to focus on Alberta companies, for whose regulation we are primarily responsible.

For insurance companies the superintendent and the Insurance Council will be responsible and accountable for market conduct activities of companies and agents and adjustors. Treasury will be

responsible for monitoring market conduct activities of all registered loan and trust corporations. However, there are amendments to both Acts that will allow the regulator to take into account circumstances in Alberta in setting terms and conditions on a company's licence or a corporation's registration.

I'd also like to address the question that was raised by the Member for Edmonton-Manning when he asked about the impact of the exemption under section 1.1. The intent is to limit the application to traditional insurance products by excluding products such as warranties offered to persons other than the manufacturer or retailer on household goods which may technically fall within the definition of insurance but do not pose significant financial risk.

Also, clause (c) of that section would allow us to exclude specific nonprofit groups; a Mennonite group that has been operating in the insurance program for almost a hundred years, for example. They are not regulated in any province.

9:40

I want to also discuss briefly the concern that was raised by Edmonton-Ellerslie regarding the repealing of the deposit requirement. Presently the deposit requirement is designed to provide some funds to pay for the liquidator of a failed company. The amounts of deposits, from $3,000 to $500,000, for life insurance tend to be small in comparison to their liabilities. With the creation of two industry-funded compensation plans in the 1980s, the Canada Life and Health Insurance Compensation Corporation and the property and casualty insurance corporation, consumers are protected to certain specified amounts; for example, $200,000 on life insurance and $2,000 a month for annuities. There is no need to require a deposit, and the federal government repealed this requirement for federal companies in 1992.

[Mr. Clegg in the Chair]

Does everyone now have a copy of the amendments? I'd like to deal with the amendments. First of all, I'll deal with the amendment to section 2. This is the shorter of the two amendments, on the single page. This amendment is a consequential amendment to the registration section of the Act. This is with respect to trust companies wherein in the Act itself section 34 says that an application for registration shall include, and it goes on to list a number of things, one of which is that the application will include evidence of CDIC insurance on the part of a deposit-taking trust company. This particular section is no longer required because in the Act, if members will turn to page 52, clause (c.2) at the very bottom of the page says that they shall not be registered

> unless the corporation satisfies the Minister that it is a member of the Canadian Deposit Insurance Corporation or has its deposits insured by another public agency prescribed by the Minister.

So it's really a consequential amendment that was not caught in the original drafting. It's a duplication that's unnecessary.

THE DEPUTY CHAIRMAN: Hon. member, just for clarification for the Chair here, are you moving just the one amendment there to the Bill, so we can put that as A1?

MR. RENNER: That's right. The amendments are quite distinctly different, and I think it would be easier to deal with them separately.

THE DEPUTY CHAIRMAN: Okay. A1 is that the Bill is amended as follows: "A. Section 2 is . . ." Is that the one you're talking about? All right. We will put that as A1. So that's what we're talking about, that specific amendment.

The hon. Member for Sherwood Park.

MR. COLLINGWOOD: Thank you, Mr. Chairman. I just want to indicate to the hon. member one of the difficulties. As he's heard us mention in the past, the difficulty with dealing with this Bill in second reading and in Committee of the Whole is that what we're dealing with is the Financial Institutions Statutes Amendment Act, which in essence is what the government will consider the first stage of amendments to the Insurance Act, but then we get to the back of the Bill and there's a number of changes to the Loan and Trust Corporations Act. I want to just mention, hon. member, that when I was looking at the amendment, it doesn't even say which particular statute you're amending on this. It's now been put on the record, Mr. Chairman, that the amendment that is A1 is in fact an amendment to the Loan and Trust Corporations Act, not the Insurance Act, even though the amendment makes no statement to that effect. We have a section 2 of the Bill under the Insurance Act, and we have a section 2, as I read the Bill, under the Loan and Trust Corporations Act.

Now, the other difficulty, Mr. Chairman, is that when we are dealing with an amendment Bill in the Legislative Assembly, we do not have the current Bill, other than what is provided in the Bill itself. So when the member says that we're introducing an amendment that repeals section 30(4) of the existing Act, I don't have 30(4) of the existing Act, so I take the member's explanation. But it is indeed difficult for members to engage in debate without having had the opportunity of some indication of what section 30(4) of the Act reads.

Now, I will take the member at his word that it is a consequential amendment, as I understood him, recognizing that the amendments the government is introducing in subsection (4) were missed in the inclusion to subsection (2) but essentially deal with CDIC insurance, and therefore, because it was missed in the first round, we're getting it in now so that it isn't missed and we find we've got the problem later on. We're dealing with it now, but it is consequential relative to (4)(d)(c.2). If I'm correct on that and I've got clarification from the member, Mr. Chairman, then that's all the comment I need to make.

MR. DICKSON: I've got a couple of questions, Mr. Chairman, relative to page 48 of Bill 21, and it has to do with a notion that I'm not familiar with. It's the concept of a restricted certificate. I note now that only a transportation company formerly had the opportunity to receive from the superintendent of insurance a licence. Now what's happened is that we have an expansion to include not only a transportation company but also a travel agency or a car dealer.

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

THE DEPUTY CHAIRMAN: The hon. Member for Medicine Hat on a point of order.

Point of Order
Clarification

MR. RENNER: Mr. Chairman, if I could just get some clarification. I'm under the impression that we're dealing with the amendment at this point, and comments that the member is making are dealing with entirely different sections of the Bill.

The amendment refers to pages 51 and 52 of the Bill.

I'll be pleased to address other concerns that members have, but I would like to deal with these two amendments first. Then we can get into the more broader aspects of the Bill itself.

MR. DICKSON: Mr. Chairman, there's no page number referred to on the amendment we were dealing with, but I take the clarification, member, and I'll come back and raise my question later, after the amendment on the floor has been disposed of.

THE DEPUTY CHAIRMAN: Okay. Thank you.

[Motion on amendment A1 carried]

THE DEPUTY CHAIRMAN: The hon. Member for Medicine Hat.

MR. RENNER: Thank you, Mr. Chairman. If I could, I would like to move a second amendment. That is the amendment that members also have, and I guess you'll be referring to it as A2. It's on a separate page.

In a nutshell, if I could explain to members the rationale for this amendment, the reason it's here, we're now dealing with the first part of the Bill, which deals with insurance companies. There is a provision in the Bill itself that increases the minimum amount of equity that is required by extraprovincial insurance companies to $3 million. It's currently at $1 million. It's being increased to $3 million, according to the Bill, effective January 1997.

As a matter of fact, I believe one of the opposition members raised this issue in debate at second reading and questioned if there was any provision to allow any insurance companies that might be affected by this to continue to conduct business in the province until these minimum requirements had been reached. I indicated at that time that they would be allowed to continue to write insurance up until the date of January 1997.

Subsequently, I've had discussions with two insurance companies; by the way, the only two insurance companies doing business in the province that are affected by this provision, both of which have corporate offices headquartered in Saskatchewan, both of which deal exclusively with underwriting hail and crop insurance. They indicated that while they understood the necessity for the province to increase the minimum requirement – in fact, they indicated to me that Manitoba recently increased their minimums to $3 million as well; Ontario is at $5 million. They indicated that while they were very willing to increase their capital, they felt it would create some hardship for them to increase it from $1 million to $3 million in the short time frame from now until January of 1997. The intent of this amendment is to make it a staged increase to $2 million in January 1997 and $3 million in January 1998.

The rest of the amendment deals with requirements that are consequential to that to allow the province to continue to regulate these two companies until they reach the $3 million cap. So where the Bill allows that the province need not regulate extraprovincial companies because these two companies could not have reached the minimum capital requirements until 1998, there are interim measures for the Alberta regulator to continue to regulate these two companies until they reach the minimum capital requirements no later than January of 1998.

9:50

THE DEPUTY CHAIRMAN: Hon. member, I don't want to show my ignorance, but you have different amendments here. Are you just doing A, which we would call A2?

MR. RENNER: No. I'm sorry. I'm moving that all of the amendments on this second page be dealt with as one, all at the same time.

THE DEPUTY CHAIRMAN: Thank you very much.

The hon. Member for Sherwood Park.

MR. COLLINGWOOD: Thank you, Mr. Chairman. It's again making it a bit more difficult. I'll try to encapsulate what the Member for Medicine Hat is saying with respect to this amendment. My understanding from his introduction of this amendment is that there are some companies that will be caught by the current provisions in the Bill, where they would have to increase their capital to $3 million from not less than $2 million by January 1, 1997 – December 31, 1996 – if I got that right.

MR. RENNER: From $1 million to $3 million.

MR. COLLINGWOOD: From $1 million to $3 million under section 1(25). We are now, then, with the first part of the amendment in section A finding a vehicle or a mechanism to give those two companies that deal exclusively in hail insurance a longer window. As long as at that date they are not less than $2 million, they do not have to reach the $3 million until 1998. So they can have the calendar year 1997 to reach that minimum requirement of $3 million.

The only comment I guess I have, then, Mr. Chairman – I haven't had time to really think about this – is that I'm wondering whether or not the hon. member should indicate in this amendment that 1.1 is notwithstanding section 34(1), that lays out the new rules for all companies. We're now exempting two companies to give them a longer window as long as certain conditions are met. I'm wondering whether or not to make that an absolute certainty, that the amendment doesn't have to say, "notwithstanding section 34(1), here are the rules that apply."

I know that the attempt has been made that we are only dealing with companies that deal with hail insurance. We are implicitly saying, "It's you and it's you." We're not actually saying, "It's you and it's you." I just want to ensure that in the amendment we are not slipping back in any way into 34(1) and then finding this gap that occurs because we've kind of done it implicitly rather than explicitly. I suppose if I were to look at this, my immediate reaction would be to read in: notwithstanding 34(1) here are the rules as long as these conditions are met. That would be my only comment with respect to A.

I'll take the member's comments with respect to B and C of the same amendment that then specifically identify the dates that have to be met for the requirements to be met. Now, admittedly, Mr. Chairman, I haven't looked in detail at C of amendment A2, which I think is what we're talking about, because it's fairly lengthy. I take it that it is dealing with the dates, giving that window of opportunity for the calendar year 1997, meeting the $3 million minimum requirements by January 1, 1998.

Having heard that those are the amendments, Mr. Chairman, and having some clarification, I'll conclude my remarks.

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

MR. DECORE: Thank you, Mr. Chairman. When I first listened

to the amendment, I must admit that I was sympathetic to it. It is onerous for some companies to go from a million dollars in capitalization to $3 million. I think there's a sensitivity in what the hon. member is suggesting, but here's the problem. The insurance industry has just put forward statistics on where companies stand in terms of solvency. What is their position in terms of their finances in relationship to other companies? Do they pass certain tests? There are eight tests that are given in terms of a solvency test for insurance companies, and companies can be categorized either as an A class company or a D class company.

Now, Mr. Chairman, the purpose of a higher capitalization is to protect the public. This is the sum and total of why we're going from $1 million to $3 million. The Alberta Legislature and the Alberta regulatory system recognized that there had to be a better system, a more secure system, and thus we went from a lower figure to $3 million. Now, I know some people in this province that are attempting to take a company and create an insurance company. It's a fair onus to find $3 million in capitalization, but the onus is there for a purpose, and that is to protect the public.

Mr. Chairman, when you look at some of these companies on the list, quite frankly I get a bit jittery about some of them that are there that are in that D class classification. I say to myself: are we protecting the public? Are we protecting those Albertans who want hail and crop insurance if this company or these companies go down? So I can't accept this. With all of the greatest respect for an individual who is sensitive to these two Saskatchewan companies, I think there's purpose in insisting that people from out of the province play by the same rules that Albertans have to play by. The rules are in place to ensure that Albertans are looked after.

Thank you, Mr. Chairman.

MR. GERMAIN: In the overall scheme of things the hon. member says that this probably won't make much difference. The companies involved are going to come up to the appropriate capitalization in two years or more. It would seem to me, however, that the hon. Member for Edmonton-Glengarry raises a very good point. We have a competitive industry that is being nurtured in the province of Alberta, and we are effectively giving corporations based out of this province preferential treatment in comparison to other companies that might be similarly situated in this province.

Now, the hon. member says that this is because he wants to allow them to build up their capital fairly, but that seems inconsistent, Mr. Chairman, if you'll permit me some latitude here, with what we just previously did to the truckers of the province of Alberta, who have a legitimate claim to fuel rebates. We said that they couldn't advance their claim anymore. In one case, we were prepared instantly and retroactively to change a right, and in another case, where an organization has had significant notice, we're not prepared to say, "You've got to comply with the new legislation."

It raises a very interesting concept. With respect, it leads to the potential allegation that once again we treat profit-making industries better than we treat individuals who basically work and toil with their hands and their bodies on a daily basis to make a living. We have had here in the space of half an hour an inconsistent approach to a somewhat analogous argument. I think that in retrospect and on further introspection, the hon. member ought to withdraw this amendment or provide us with further evidence or indication or go back to the industries involved and say: "Come up with something that is comparable other than the protection of your capital base. Come up with a guarantee, or come up with some other form of security to protect those members of the public that deal with this organization."

10:00

MR. DECORE: Mr. Chairman, I rise to just further that one point that the hon. Member for Fort McMurray made. There was a case of a Canadian company, hon. Member for Medicine Hat, that wasn't meeting the requirements of the Ontario capitalization statute. They were called in and told, "You must ante up more money." It was solved by the company putting up a guarantee, a bank guarantee that $3 million was in place. I think that's the way to handle this situation. So I would invite the hon. Member for Medicine Hat to take this amendment back to ensure that Albertans aren't discriminated against. I know of a company now that wants to be incorporated that has to raise $3 million. Why should it be put at a disadvantage to these two companies from Saskatchewan? It shouldn't happen.

THE DEPUTY CHAIRMAN: The hon. Member for Medicine Hat.

MR. RENNER: Thanks, Mr. Chairman. I'd just like to clarify a couple of points. First of all, the amendment deals only with companies that deal exclusively in hail and crop. They're licensed to sell hail and crop insurance. There are no Alberta-registered companies other than Alberta Hail and Crop, which is the government body, that sell hail and crop insurance in this province. There are other private-sector companies that sell hail and crop insurance. None of them are based in Alberta.

The rationale for this amendment is that there are very few companies actually selling hail and crop insurance in this province. This could reduce the number of companies that are selling in this province, thereby affecting not only the ability of the agricultural community to choose their insurance carrier but also affecting the ability of Alberta brokers to carry a varied line of insurance that they can make available to the agricultural sector.

The hail insurance business is somewhat different than other businesses in that hail claims statistically happen at all places around the world but usually do not happen in all places of the world at the same time. What hail insurance companies do is through a process of reinsurance they spread out the risk across the world. They may have reinsurers in Europe and in South America and in Australia. The likelihood of having a disaster in all areas at the same time is reduced, and that's how they tend to reduce their risk.

We have never had a problem with either of these two insurance companies. We've made it very clear to them that our expectation is that they do meet the minimum $3 million requirement. All we've done is give them an extra 12 months to meet that goal.

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

MR. CHADI: Thank you, Mr. Chairman. I feel compelled to stand today and speak to this Bill and this amendment. After listening to the debate in the House tonight, I'm still not convinced that I understand what this amendment is trying to achieve. The Member for Medicine Hat on two occasions spoke and lastly spoke about this amendment relating only to hail and crop

insurance. I'm still struggling to find how that fits in with only hail and crop insurance, and I would hope that he could give me some guidance.

When I look at page 8 of the amendment Act and I look at the amendment prior to the sheet that was distributed here, the amendment amending the amendment, it indicates that

> a licence of an extra-provincial company that is a joint stock company whose capital has a value that is less than $3 000 000 may be renewed for 1997 if . . .

and offers the different reasons.

[Mr. Herard in the Chair]

It goes on to say (a), (b), and (c), and (c) says, "the value of the company's capital at the time of renewal is not less than $2 000 000." Now, is that (c) relating to all classes of insurance other than life? If it is, I'd like to know. I'd like to understand what this is in fact suggesting. Give me some guidance here, hon. Member for Medicine Hat. I'm not convinced that members on this side of the House quite understand it either.

THE ACTING CHAIRMAN: The hon. Member for Medicine Hat.

MR. RENNER: Thank you, Mr. Chairman. The Bill itself, Bill 21, increases the minimum capital requirements for extraprovincial insurance companies to $3 million. That's unequivocal.

MR. CHADI: For all classes? Everything: life, hail? All classes?

MR. RENNER: Yes. What this amendment does – in addition to the requirements in Bill 21 that increase the minimum capital requirements to $3 million, this Bill then goes on to say in the new section (1.1): "A licence of an extra-provincial company" that has capital "less than $3 000 000 may be renewed for 1997 if," and then there are three different qualifications that all must be met:

> (a) the company has held a licence under this Act from the time that this section comes into force to the time that the licence is renewed.

It says that they must have been doing business in this province before the Bill comes into effect.

> (b) the licence that the company has held authorizes the company to undertake only hail insurance, and
> (c) the value of the company's capital at the time of renewal is not less than $2 000 000.

The minimum requirement today, as we speak, is $1 million.

So it's saying that by the end of 1997 they need to be up to $2 million, and then by the end of 1998 they will be up to $3 million, which is what the Bill itself requires. The rest of the amendments here are really consequential to allow that to happen.

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

MR. CHADI: Thank you, Mr. Chairman. I appreciate the Member for Medicine Hat's explanation with respect to this amendment, and I want to thank him for that. It certainly has made it a lot clearer for me. I understand the amendment, and I would suggest that I will support this amendment.

Thank you.

[Motion on amendment A2 carried]

[The clauses of Bill 21 as amended 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? Carried.

10:10

Bill 25
Alberta Corporate Tax Amendment Act, 1996

THE ACTING CHAIRMAN: The hon. Member for Grande Prairie-Wapiti.

MR. JACQUES: Thank you, Mr. Chairman. I believe the Table officers have an amendment. I would ask them to kindly circulate it at this time.

THE ACTING CHAIRMAN: Hon. member, we'll label that amendment A1.

MR. JACQUES: Thank you, Mr. Chairman.

The Bill before us tonight, the Alberta Corporate Tax Amendment Act, has one amendment that we're introducing, and it references section 26, which appears on page 18 of the Bill. Effectively what it does is change the reference which currently is contained in subsection (5) as identified under the amending section 26, where it refers to the words "a court." The reason for the amendment is that under the definitions within the Act, the court refers to Court of Queen's Bench, whereas in this particular case the offences under the ACTA are summary convictions, which are tried in the Provincial Court. So, accordingly, the amendment referring to item (5) in amendment A1 refers to a Provincial Court judge.

The second amendment, Mr. Chairman, is the addition referenced as item (6) under amendment A1, which is basically to allow for a Provincial Court order to be filed with the Court of Queen's Bench so that when it is filed, it is considered to be "an order of the Court of Queen's Bench." Therefore, it would have the same impact as if it were an order of the Court of Queen's Bench itself, and in the case of noncompliance the person could be charged with contempt of court.

Those are the only comments I have to offer, Mr. Chairman.

THE ACTING CHAIRMAN: Hon. member, in debate you referred to the first amendment and the second amendment. Is it your wish to split them, or are we voting on A1?

MR. JACQUES: No. I'm sorry, Mr. Chairman. Just for clarification, I was referring to the entire amendment A1, but there are two items: one is identified as clause (5), and one is identified as clause (6).

THE ACTING CHAIRMAN: And you wish to have them voted . . .

MR. JACQUES: As one.

THE ACTING CHAIRMAN: As one. Thank you.

The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you very much. Mr. Chairman, this extends the provision of the power of the Provincial Court of Alberta. In addition to being a trial court for summary conviction matters, it also now involves the Provincial Court of Alberta in civil jurisdiction issues where the sum of money may be exceeding the small claims constitutional limit of, I believe, $4,000 per claim. The ability to order the provision or return of information or demand the filing of a return, which theoretically would give rise to civil enforcement, is an area that I think we have to discuss in greater detail in this Legislative Assembly.

My questions to the hon. member, the sponsor of this amendment, are these. Has the Provincial Court seen this amendment, and have they concurred that they have provincial jurisdiction to make these rulings, or are they in fact acting ultra vires their jurisdiction? Secondly, hon. member, what is the status of an appeal pursuant to this particular order? Is there going to be the opportunity for a person who is ordered to file a return or produce a document – is he going to be given a right of appeal? Finally, because of the referral of this matter by filing to the Court of Queen's Bench, presumably the Court of Queen's Bench could enforce this either by a contempt application perhaps leading to imprisonment.

I want to be sure in this Legislative Assembly that we have at least from the hon. member his assurance that the Provincial Court and the Court of Queen's Bench concur with this, because this is a rather unique departure. This is the intermixing of a criminal standard of proof with certain other obligations to order the filing of returns and to produce a document. I'm very concerned about that, not from the practical point of view. The purpose of the amendment is obviously to encourage compliance with the government's duplicitous filing in the event of potential civil disobedience from taxpayers who end up wishing to express their discontent with the obligation to go through a duplicitous system to satisfy the provincial government.

There may be other members who would have more to debate on this section, but I would be grateful if the hon. member who sponsored this amendment would advise us about those very important and very critical issues before this Assembly is asked to vote on something that may indeed be ultra vires the Provincial Court of Alberta.

THE ACTING CHAIRMAN: The hon. Member for Grande Prairie-Wapiti.

MR. JACQUES: Thank you, Mr. Chairman. I'm not going to attempt to express the same eloquence as the Member for Fort McMurray, as a member of the legal profession. I did want to point out, however, that if we refer to the original section as proposed in the Bill before us, it refers to the word "court." In fact, section 76 describes the offences under the Alberta Corporate Tax Act, which we refer to as the ACTA. It also includes the failure under there to provide information required under the Act. It goes on to point out that a person who has committed an offence may be prosecuted, and if convicted, that person faces a fine but still is not required to produce the information required. In order to get that information, essentially the revenue administration has to start the process all over again with another formal demand.

The proposed section, as it was introduced, referred to section 26, and it added a new subsection, which was, effectively, to provide for the issuance of a court order immediately following a successful conviction. I think that's very important: successful conviction. Really the amendment that is now being introduced is not changing the intent of that but rather is clarification, because under section 1(2)(c) of the ACTA, court is defined as the Court of Queen's Bench, when indeed the prosecution under section 5 as proposed and under section 26 of the Act is pursuant to the Provincial Court. Therefore, the amendment that we have here is to clarify that. Indeed if the Act refers to the court, which is Queen's Bench, but indeed the prosecution is pursuant to the Provincial Court – that is the clarification that we're seeking.

The second issue. First of all, I cannot respond to your question, hon. member, as to whether or not this was discussed with Provincial Court representatives. However, as the member is aware, contempt of court proceedings do not apply to provincial court orders, and therefore there is no mechanism under the Act to enforce a provincial court order. So really what we're doing here, as a remedy from an enforcement point of view, is to allow for that provincial court order to be filed with the Court of Queen's Bench, and by doing so, then it will be considered effectively to be an order of the Court of Queen's Bench. Therefore, it would have the same power, and to the extent that there was failure to comply, then indeed there could be, but not necessarily, an offence in terms of the individual or corporation being charged with contempt of court.

10:20

THE ACTING CHAIRMAN: The hon. Member for Fort McMurray.

MR. GERMAIN: Yes. I did understand the member's explanation concerning the transference to the Court of Queen's Bench to bring on the more encompassing jurisdiction of the Court of Queen's Bench. But on the issue of the court's jurisdiction in its initial stage to deal with this even after a conviction – when the court makes its finding of guilt, then the only residual right that it usually has left is the residual right of sentencing, not of ordering further and other directions which are in effect civil remedies.

In addition, it would seem to me at the very least that subsection 6, that you're proposing here, hon. member, should not take effect until the appeal of the conviction and/or other relief of the Provincial Court has taken place. It would seem to me that that would be a very realistic amendment to put in which would make sense. I think even you would agree that you wouldn't want to start your enforcement proceeding for the production of documents if the person was able to successfully appeal that portion of what we'll call his sentence on conviction.

So what I would like to do, with your kind permission, Mr. Chairman, and hopefully with the permission of this Assembly, is move adjournment of the debate on this particular amendment, because I think that in fairness, before this Legislature votes on it, we should have more of that background information.

THE ACTING CHAIRMAN: Hon. member, I'm not aware that you can adjourn debate on an amendment. Are you suggesting adjourning debate on the Bill?

MR. GERMAIN: I'm sorry. I'll defer to your ruling, but I thought that an individual could adjourn debate on an amendment, and then we would go on to deal with the other aspects of the Bill. If I'm wrong in my understanding of the Standing Orders, then I do stand corrected.

THE ACTING CHAIRMAN: Well, it's my understanding, hon. member, that if you want to adjourn debate, you're adjourning debate on the Bill.

MR. GERMAIN: Very good then. For the reason I articulated in my concerns on the amendment, I'll move that we adjourn debate on this Bill.

THE ACTING CHAIRMAN: The hon. Member for Fort McMurray has moved that we adjourn debate on Bill 25. 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.

[Motion on amendment A1 carried]

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

DR. PERCY: Thank you. In second reading of this Bill we had spoken to the principle behind the Bill – this was prior to the amendment – that the Bill itself attempted, then, to harmonize the Alberta legislation with respect to the federal and that it really attempted to make some positive moves: a move to electronic filing, a tightening of some loopholes with regard to royalty tax credits and the like. So, on one hand, we can support the Bill in that regard because it attempts to remove some of the problems of red tape and the like. But I have to be very frank with you, Mr. Chairman. Overall we think that the Bill should in fact be hoisted, and in third reading we're going to propose that it be hoisted and not debated for six months.

The reality is, Mr. Chairman, that this Bill duplicates federal legislation. It would be far better for the provincial government to continue to negotiate with the federal government so we could do away with the Alberta Corporate Tax Act itself. In light of the fact that that's our view, that you can't amend this because it doesn't make a lot of sense to amend something that you view as being redundant and duplicating what is already out there – I mean, we know that the extra costs with regard to this Bill are anywhere from $5 million to $10 million a year. Now, the hon. Provincial Treasurer has said: well, we've had problems negotiating with the federal government in terms of the time period in which they would make remittances and some issues with regards to carry-forwards. But we're talking about a significant sum of money each and every year that it costs us to administer this Bill, not to mention the cost to businesses in this province of having to in fact deal with a separate Alberta Act and the federal Act.

It makes far more sense, Mr. Chairman, that we in fact do everything that we can conceivably do to get rid of this Act. In fact, I do recall that we had passed enabling legislation that would have done away with the Alberta Corporate Tax Act and which would have in fact allowed the federal government to collect these taxes within Alberta and then remit back to the province. Then the negotiations stalled, and we then came back to this. The best solution is in fact to get rid of the Act, allow the feds to collect the revenues, and to negotiate with them.

So although we're not going to bring forward amendments, we are certainly going to signal that in this area we think $5 million to $10 million a year is a substantial amount of money and that it would make far more sense to proceed along with these negotiations than in fact to try to amend a flawed Bill in principle, the flaw being that it's costly to administer, that it duplicates what the federal government is already doing. Our efforts should be better directed to negotiating an agreement as opposed to this process.

Given that we're stuck in this rotten situation – it's rotten because it imposes real costs on corporations and small businesses in this province, not to mention the costs of collecting the revenues – the amendments to the Act that are here do make an intolerable situation less intolerable, but it's only a matter of degree. The better solution is in fact to get rid of the Act itself and harmonize with the federal government, allow them to collect the revenues. It just makes a lot of economic sense, saves money, and certainly gets government off the back of small businesses and corporations in this province.

Thank you, Mr. Chairman.

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

MR. SEKULIC: Thank you, Mr. Chairman. I rise to speak to Bill 25. The reason I rise at this time is I did rise in support of Bill 25 in its second reading, and I need to just set the record straight.

When I rose in second reading, I highlighted a few points, strengths which I saw in the Bill at that time. What I saw then were the modifications or technical changes to bring the province's Corporate Tax Act in line with the federal counterpart, and I found that to be a positive. The tightening of loopholes with regard to the royalty tax credit – once again, I thought it was a positive – and the issue of electronic filing: these were all positives.

Mr. Chairman, earlier this evening we spoke to a Bill, Bill 17, where we saw in IFTA a harmonization, an attempt to make more efficient tax collection, to remove the burden from businesses in Alberta, yet we don't see that same quality or that same feature in Bill 25. Although at second reading I saw the strengths, since that time I see the fact that one of the key elements, a move towards ultimate efficiency, is absent in Bill 25.

Although I seldom disagree with the hon. Member for Edmonton-Whitemud, on this occasion I believe that there in fact may be higher costs to Alberta businesses and corporations. He cited between $5 million and $10 million, and I would in fact say that he may be a little generous. [interjection] I wouldn't say a little conservative; no, I wouldn't, hon. member. But I would say fiscally responsible. There is a difference, a very important difference there. I believe the extra costs that may be borne by Alberta corporations and small businesses may be in fact upwards, the floor being around $8 million and perhaps the ceiling at $10 million. So the costs are significant. This government should strive to remove those costs and work with the federal government, because the product of that work and that co-operation would be savings to Alberta corporations, and for that, if for no other reason, it should be looked at.

I personally support that type of harmonization. I stood before in this Assembly and I'm standing at this time in opposition to duplication and, like I said, in particular when this duplication has such a significant cost. If you want to generate business in this province, and if you want to remove some of the barriers to business, particularly small business in this province, look at those savings that we could pass on if we were to eliminate that duplication.

10:30

Mr. Chairman, I did support in principle the Bill at second reading, and now I am agreeing at a different level with the hon. Member for Edmonton-Whitemud that when this Bill does come to third, a responsible thing to do is to hoist it and to get the hon. Treasurer to work with his Ottawa colleagues to come to a resolution that can result in cost savings, because that is the responsibility of this Assembly. I would encourage the Treasurer, and I know in fact he would take that advice if he were in his chair this evening. I would encourage all members to take a closer look at this, take a look at the implications it does have on business, and take a look in particular on the implications of putting this Bill off and resolving the issue through negotiation. I believe that's the responsible way to go.

Thank you, Mr. Chairman.

THE ACTING CHAIRMAN: The hon. Member for Fort McMurray.

MR. GERMAIN: Yes, Mr. Chairman. Once again we have an example of contrasts in the position and stance of the provincial government of this province. We have some hon. members sitting on a committee to streamline and grandfather and remove and excise and mutilate and trample on and cut out and kick out and take away all the regulations that are deemed to be unnecessary for the further advancement of business in the province of Alberta. We have that committee working hard to deregulate and remove red tape, and we have the Provincial Treasurer working his absolute hardest to prejudice against Alberta-based corporations and to create more red tape and more wonderment.

The hon. Member for Grande Prairie-Wapiti spoke in favour of this Bill. I would be grateful if that hon. member would give me an explanation of what this section in the Bill means, section (2.01), found at page 4 of the Bill, where it says:

> No amount may be deducted under subsection (2) for a taxation year in excess of the product obtained when the amount determined under section 20(2) is multiplied by the applicable percentage for the taxation year.

That would be virtually a gravity-defying feat if the hon. Member for Grande Prairie-Wapiti could give me an explanation of what that section means and what he wants us to vote on.

Frankly, Mr. Chairman, this Bill is odious legislation because it taxes Alberta corporations in a manner different than other provinces tax Alberta corporations. It makes Alberta only one of two provinces, the other being the province of Quebec, that creates and obliges a separate, government-collected corporate tax system. Now, if this thing is so good and if this is such a wonderful idea to treat our Alberta corporations this way, why don't we extend it to nurses and why don't we extend it to health care workers and why don't we extend it to the young men and women working in the McDonald's restaurants of Alberta? Why don't we extend it, hon. member, to your family and your children and your wives in the filing of their tax returns? If this is a system that we think is fair and equitable, why isn't it applied equally to all taxpayers? No.

Once again, late at night in this Legislative Assembly, Mr. Chairman, we have the members of the Alberta Official Opposition fighting for genuine business, removal of red tape. Virtually one hundred percent of the business community – the chambers of commerce, the Better Business Bureaus, the tax accountants – give the message constantly to this government: strike this corporate tax collection scheme. What does the government give us in return? Government gives us in return: "We wouldn't be able to give corporations a pay-only-once-a-year break."

Well, I want to say that I'm a businessman, and I file corporate tax returns, and, yes indeed, I pay only once a year, but I ask myself as an elected Member of this Legislative Assembly: is that fair? Is it fair for a corporate boss to pay his provincial taxes only once a year while his employees get theirs deducted on a monthly or weekly basis? Is that particularly fair?

Last week we had the Minister of Labour file and discuss and debate in this Legislature a Bill that said that you couldn't have any pay periods longer than a month. So the Minister of Labour on the one hand ensures that every working Joe, the people that the Premier sometimes refers to as the so-called severely normal Albertans, is going to be taxed by this government by having this government slither its hand into their pockets at least 12 times a year. Shoot your hand down into their pockets, members of this Assembly, and extract tax for the province of Alberta 12 times a year, but for corporations in Alberta let's only do it once a year. Then what happens to the corporations who go broke 11 months before the end of their fiscal year? What happens to them? Of course, that tax is never collected. So what happens is that Mr. and Mrs. Severely Normal Alberta have to dig deeper into their pockets to make up those kinds of shortfalls.

If the government members do not see the inequity in this, there is something wrong. This legislation should be abolished. It should have been abolished two years ago when we spoke to a similar Bill integrating other federal concerns. It should have been abolished in '93. It should have been abolished in '94. It should have been abolished in '95, and here we are again in 1996 debating this Bill. You have members of the opposition party sticking up and fighting for business, business that wants the playing field to be fair and wants their paperwork to be deregulated.

You know what else the government has, Mr. Chairman, now that I've warmed to the topic? The government has an entire cadre of auditors and inspectors that go around. You know, it's a sense of personal pride. If the federal government sends their inspectors in and they find an error and the provincial government missed it, why, the provincial government inspectors go back in and look and look and look until they find something. Then the federals can come back and the provincials can come back. So you know what you've got? You've got the same situation you have when you have a defenceless child in a school playground where you've got two bullies on each arm, twisting each arm trying to determine who is hurting the most. You know, that's what you have in this legislation.

Some Members of the Legislative Assembly are amused that members of the opposition will fight for Alberta taxpayers in the way that we do. [interjection] Well, the hon. member laughs. He laughs at those corporations who say: "Axe this tax. Axe this Bill. Axe this tax-collecting scheme."

MR. WOLOSHYN: Axe the speaker.

MR. GERMAIN: Ah, no, hon. member. The government Whip said, "Axe the speaker." Mr. Chairman, I do not adopt nor do I share that view, the view expressed by the hon. government Whip, who himself was previously a member of a socialist party. They would encourage this type of legislation, and I will predict that he will stand up and vote for this odious tax collection scheme because that is exactly what socialists do: they vote for odious tax collection schemes in the face of those people debating

to axe this tax-collection mechanism. [interjections] Yeah, now I see. They're all chirping now, and you know why that is? That is because they are guilty. They carry the guilt of this tax as they leave this room.

With that, Mr. Chairman, I will take my place, once again expressing in this Legislative Assembly my objection to the Alberta corporate tax recovery system and urging all Albertans and all members of this Legislature to continue to press the Provincial Treasurer to get rid of this odious tax collection scheme, this double tax collecting scheme, this drainer of jobs in the province of Alberta.

Thank you, Mr. Chairman.

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

MR. CHADI: Thank you, Mr. Chairman. I want to follow up on what the Member for Edmonton-Whitemud spoke about and the Member for Fort McMurray and the Member for Edmonton-Manning. Fighting for Albertans is what we're all about. That's what we were elected for.

AN HON. MEMBER: Sine, that's unusual for you.

MR. CHADI: There's nothing unusual . . .

Chairman's Ruling
Decorum

THE ACTING CHAIRMAN: Hon. members, order please. It's becoming very difficult to hear the speaker. I would appreciate it, if you're going to have discussions, if you could go have these discussions outside the Chamber.

Thank you.

10:40 **Debate Continued**

MR. CHADI: Mr. Chairman, I was saying that it's nothing unusual for me to stand up and speak out against the Alberta Corporate Tax Amendment Act, 1996, the Alberta Corporate Tax Act, because there's no doubt that this is redundant. It's being collected for every other province by the federal government, with the exception of Quebec.

We stood up in this Legislative Assembly countless times. I know I have, and outside of this House I continue to talk about it. What we need to do is continue to talk with the federal government to ensure that we've exhausted all efforts. I know, in speaking with the Provincial Treasurer on numerous occasions, that we had an opportunity to deal with his federal counterpart, and there were excuses given by the Provincial Treasurer as to why we couldn't make a deal with his federal counterpart. One of the reasons was, as he cited at one point, that the federal government would then collect the tax on a monthly basis rather than on an annual basis. I recall and I quote the Provincial Treasurer as saying that we do not want to subject our Alberta corporations into having to pay it on a monthly basis.

Now, this is a small portion of tax relative to the amount of tax that is paid to the federal government. Every corporation has to create these two different tax returns and send a cheque with the one to the federal government, to Winnipeg, and the other one comes to the Alberta corporate tax. Now, this is a smaller portion of that.

I tell you, Mr. Chairman, that what we should do is continue to deal with the federal government. We need to continue the negotiations that commenced back in 1992, I believe. We need to continue to deal with the recommendations of I believe it was the Financial Review Commission and others and businesses throughout the province.

Now, I heard the Member for Edmonton-Manning say that he heard the Member for Edmonton-Whitemud talk about the cost to Alberta corporations being $5 million to $7 million or $8 million. That's not the case at all. The fact of the matter is that it's costing Alberta taxpayers to keep this Alberta corporate tax collection in Alberta, by the Alberta government, somewhere in the range of about $15 million. Now, that $15 million that we spend also includes other forms of taxation, but if you break it down to the exact figure of how much the Alberta corporate taxes are alone, the Provincial Treasurer sets that figure at somewhere between $5 million and $8 million. So, Member for Edmonton-Manning, that is what the Member for Edmonton-Whitemud was referring to when he said: the cost to Alberta taxpayers. It was the cost of administering the tax collection in this province, not the cost of Alberta corporations, because the cost to Alberta corporations far exceeds that, in my opinion.

I know as a businessman in this province at year-end each corporation has to file two returns.

Chairman's Ruling
Relevance

THE ACTING CHAIRMAN: I hesitate to interrupt the hon. member, but I think that everything I've heard so far has been to the principles of the Bill and not to the Bill itself. I think we're past that stage where we should be discussing the principles of the Bill, so could you stick to the Bill itself, please.

Debate Continued

MR. CHADI: Thank you, Mr. Chairman. I was speaking to the Bill, because we start talking now within the amendment Act about electronic filing. With respect to that issue and with respect to the different sections of this amendment Act, particularly with respect to the elimination of certain types of filings – I will get into that in my debate, but now that I've lost my train of thought, I'm going to have to try and find it again.

It wasn't so long ago though, Mr. Chairman – and I know the Provincial Treasurer stood up in this House on many occasions and said that he was now dealing with the federal counterpart. At that point in time I believe it was Don Mazankowski. He made it very clear that we had negotiations under way, that we were indeed very close to making a deal.

I again want to mention that I've spoken out on this issue many, many times. I will continue to do so. I would like to suggest that the Bill itself is, in all fairness to Albertans, I think just another additional expense, because in every part of the amendment Act it seems to be that we continue to amass some sort of an expense attached to all of the sections within this Act.

I know that during the budget estimates in Treasury when we spoke about capital expenditures, I believe it was somewhere in the range of a million and a half dollars of further capital expenditures within the Provincial Treasurer's department attributed to the Alberta corporate tax collection. So we continue to expend money, we continue to expend these funds to enhance the system that we already have to duplicate the federal government in its efforts and its machinery that is set in place. I think it's wrong, the members on this side of the House think it's wrong, and I know there are members on the other side of the House that think it's wrong. And I can tell you, Mr. Chairman,

there are many Albertans that have spoken to me and said that it is wrong. Let us not expend any more funds with respect to tax collection in this province. Let's work with the federal government. Let's deal with them to get a fair and equitable deal for Alberta, and let's get on with life.

With those comments I'll take my seat.

[The clauses of Bill 25 as amended 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: Carried.

Hon. Minister of Education, are you going to move that we rise and report?

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

[Motion lost]

Bill 27
Public Health Amendment Act, 1996

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

MR. DUNFORD: Thank you, Mr. Chairman. When we were completing the discussion at second reading, I indicated that I would attempt to get answers for some of these questions before I spoke again in the House. I now have those answers, which I'd like to provide. I don't know that these are in any particular order, but I hope the hon. members of the opposition who raised these questions will be able to identify their particular area.

[Mr. Clegg in the Chair]

One of the issues, raised by the members for Edmonton-Glenora, Edmonton-Highlands-Beverly, and Calgary-North West, was the development of regulations respecting registered nurses providing extended health services. I commented at the time that in fact these had been done in consultation with the Alberta Association of Registered Nurses and had agreed to it. As matter of fact, I have received now a letter from the Alberta association dated April 17 addressed to me and regarding our comments in the Legislature regarding Bill 27. They do confirm that the AARN did support the repeal of section 21, which related to "no liability."

10:50

AN HON. MEMBER: File the letter.

MR. DUNFORD: Well, actually that's a good idea. I'll file that letter as soon as I learn the appropriate methodology by which to do that.

Interestingly enough, they went on to make a further comment just indicating that we continue to use the terminology "medical officer of health." They're suggesting that because of our new emphasis on community wellness rather than an illness model, perhaps we should look at the continued use of that term. But that will have to come another day; I'm not prepared at this time to make any further amendments to this Bill.

Again, the Member for Edmonton-Glenora asked: why is the responsibility for waste management being transferred to Environmental Protection? I believe I stated at the time that many of the reasons had been articulated by the Member for Sherwood Park. Just to go over some of them again, it is anticipated, then, that the transfer to Environmental Protection would streamline and simplify the regulatory process governing waste management facilities. Alberta Health will not be completely out of the picture. Under the proposed transfer Alberta Environmental Protection will have the jurisdiction over all waste management facilities and will be combining the approval and development process into one process, but Alberta Health and the regional health authorities will continue to provide consultative support to Environmental Protection.

The Member for Leduc asked about pensions and was concerned with the repeal of section 19, that people working for regional health authorities may not be able to participate in pension plans, but our response is that changes in pensions legislation means that this section is no longer required. Repeal of this section does not prevent employees of RHAs from participating in pension plans.

One of the main issues that was related by certainly the Member for Sherwood Park and also by the Member for Edmonton-Glenora and others, I believe, was this concern about the gap in the transition period, and I would like to address that. The concern was that there would be a gap in regulation respecting waste management if Bill 27 is passed prior to preparation of legislative changes and regulations on the part of Environmental Protection. So the proposed strategy was to not proclaim section 22(c) and (d) of Bill 27, not proclaim those sections in force until Environmental Protection prepares and passes their legislation and regulations. Once the required regulatory provisions are in place by Environmental Protection, the amendments contained, then, in sections 22(c) and (d) would be proclaimed in force, and the waste management regulation identified as AR 250/85, that was passed under the Public Health Act, would be repealed. This proclamation strategy, in my belief, then would avoid this gap that was expressed quite appropriately by members of the opposition.

The Member for Calgary-North West was challenging the right of the minister to inspect under section 30, actually section 17 now, I believe, of this Bill. The response I make at this time is that the minister is still ultimately responsible for the delivery of public health services in the province of Alberta, and she requires the ability to make inquiries and perform inspections if required to ensure that the Public Health Act and the regulations under it are adhered to.

This section is not intended to regulate how regional health authorities spend their money. Under the Regional Health Authorities Act, RHAs prepare health plans outlining how they propose to carry out their responsibilities under section 5 of that Act. These plans are then approved by the Minister of Health. So section 75(1)(j)(ii) was added as a transitional provision to ensure that unreasonable financial commitments were not entered into as RHAs took over responsibility from the local boards of health.

Repeal of this section and other sections does not have the result feared by the opposition. Restrictions on the RHAs' investment and borrowing powers are contained in the regional health authorities regulation identified as AR 15/95 as amended by AR 167/95.

The Member for Calgary-Buffalo questioned the repeal of regulations respecting livestock and poultry, and the response is simply that the provincial board of health regulation respecting the keeping of livestock and poultry, division 23 identified as AR 297/72, was repealed by AR 208/95. Alberta Agriculture, Food and Rural Development has assumed responsibility for regulating in this area. Repeal of this regulation-making authority removes unnecessary duplication.

That, Mr. Chairman, concludes my remarks, which I believe handle the concerns that were raised at second reading by the opposition. I'd be prepared to answer any questions that now arise.

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

MR. COLLINGWOOD: Mr. Chairman, thank you. I appreciate the comments from the Member for Lethbridge-West with respect to the issue I had raised and the concern I had raised about the transition period with the transfer of regulatory function from public health to Environmental Protection with respect to the waste management facilities. We had at second reading made some assumptions in debate that transition would be accomplished through proclamation and the concurrent timing of the proclamation of the two aspects. From what I'm hearing from the Member for Lethbridge-West, that's the intent.

We did not at the time of second reading of Bill 27, Mr. Chairman, have before us Bill 39, which we now have, which is the Environmental Protection and Enhancement Amendment Act, 1996, and there are provisions in the legislation in Bill 39 that deal with the legislative component of the jurisdiction of Environmental Protection over waste management facilities.

11:00

We of course, Mr. Chairman, have yet to debate Bill 39 and will no doubt at some point in the near future be entering into debate on Bill 39 and presumably working toward that. As I indicated to the Member for Lethbridge-West, that is in fact debate for another time, because there are some provisions in Bill 39 that deal with waste management regulation where there is going to be some significant change in the way it's being done as opposed to the way it's being done now under the waste management regulation. We will not have the benefit, as is usually the case, of seeing what the draft regulations are going to look like for waste management regulation. My understanding is that the Department of Environmental Protection is slightly behind its original time line for having the regulations in place. That is not expected until the fall, so we may be some time away yet from the actual transition and the transfer of this regulatory regime from public health over to Environmental Protection.

As I recall, the Member for Lethbridge-West did indicate that both 22(c) and (d) would not receive proclamation with the balance of Bill 27 and would receive proclamation when, presumably, Bill 39 and the regulations that will come under Bill 39 for waste management regulation are ready to go. Again, I'll have to make a bit of an assumption that 39, while it may be proclaimed to the specific sections vis-à-vis waste management, would not be proclaimed until such time as they've got their regulations in place. Then it will all lump together in one package.

Mr. Chairman, I suppose it's a matter of semantics. The preference, of course, would have been to put the transitional provision of the Public Health Act into the Environmental Protection and Enhancement Act, make the consequential statement that the waste management regulation would then be repealed under the Public Health Act. Then we wouldn't have to go through the cumbersome approach of saying: "Okay. Let's proclaim the Bill, but let's hold off on these two sections. Then we'll do that later." It becomes a rather cumbersome, tedious process to do it that way. As I say, I'm talking semantics. What I would have preferred to have seen is the Minister of Environmental Protection coming forward with his proposal for the new regulatory structure for waste management facilities, and then as a simple consequential approach say, "We've got the new one; now we get rid of the old one and repeal the waste control regulation that's in this Bill."

Having said that I see it as a matter of semantics, there will be debate about the new regime under 39; it's not for here. While it's not the way I would have preferred to have seen it done, I have no difficulty with this. So I appreciate the comments from the Member for Lethbridge-West. Certainly I can't imagine that the government would put us in the position that there would be a vacuum, a gap, and there wouldn't be a waste management regulation. I have some comfort that the government wouldn't put us in that position. We'll simply wait for that whole process to wrap up and come together before we actually do lose the waste management regulation as it is under the Public Health Act.

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

MR. SAPERS: Thanks, Mr. Chairman. I'd like to mention a few other items about Bill 27. I'm pleased that the Member for Lethbridge-West undertook to address some of our concerns; however, I don't think that all of the concerns mentioned in previous debate have been addressed. I hope that before we exhaust this stage of Bill 27, he'll come back with a more complete accounting. Of course, I'm suggesting that that would mean that the debate would at some point be adjourned at committee before we proceed because we don't have complete information upon which to make a competent decision.

I'd like to focus my comments for the next couple of minutes on what is section 22, which amends section 75(1) of the existing Act, and that is of course the section dealing with regulations. Now, Mr. Chairman, you might anticipate that at this point I'd be bringing forward what is becoming a common amendment coming from the Liberal caucus. That is an amendment that would compel any regulations made by Lieutenant Governor in Council to be dealt with in a fully open and accountable manner. At this point I'm not going to be bringing that amendment forward, not because I don't think it would be worth while and certainly not that I am prejudiced in my thinking about what the response by the government may be. I do recall the Member for Lethbridge-West stating just moments ago that he was not prepared to accept any other amendments on this Bill. Even given that rather startling statement, I'm of course always very optimistic about the importance of debate in this Chamber, and the reason we engage in debate is to come up with the best possible laws for the province of Alberta.

Now, I notice that some of the regulatory amendments really just address numbering and some name changes, things like

substituting "local board" for "regional health authority," but others are far more substantive. There are regulations, for example, which really deal with clauses respecting extended health services that may be provided by a registered nurse. When what was Bill 5 was debated in this Assembly, there was a very vigorous and I think productive debate about the whole notion of nurse practitioners and extended duty nurses and where those nurses would practise and under what circumstances. The government seemed to be going down the road of actually crafting legislation, not regulation but legislation, that would deal with when and where nurses with those privileges and that training could practise.

Of course, we did try to amend Bill 5 to make the legislation even more specific. Those amendments unfortunately were defeated, but we were told to wait for subsequent legislative change. Now, I'm assuming that when we were told to wait for that, Mr. Chairman, what the government was saying to us was to wait for what we now see before us as Bill 27. I cannot express to you the extent of the disappointment I feel in now finding that what we were told to wait for in terms of subsequent legislation is really something that's going to be dealt with by regulation.

I wonder why we would want to leave this solely to regulation. Is it because this is going to be so much in flux over the coming years that the government will be compelled to change it and change it again and change those regulations again? Is it because the government hasn't decided yet to what extent they will allow nurse practitioners to practise their expanded duties? Is it because they don't have consensus from the nursing profession? Is it because the AARN, perhaps, has not signed off on what these regulations would be? Is it because they're getting a difference in opinion between, let's say, the nurse professional association and the nurse unions? All we can do is speculate about those questions because we have no information coming from the government in terms of why this would be left to regulation, and we are left with merely the fact that this will be all left to the Lieutenant Governor in Council. We know that what that means is that cabinet will get together and from time to time decide that they will change the way in which nurses can practise.

I would have thought the government would have learned a lesson, Mr. Chairman, about messing with the nursing profession in that way. It was not that long ago that the government tried to change regulations respecting nurses in the operating theatre. Certainly there was a public outcry and a professional outcry, and the government quite rightly backed away from that notion and said that before they changed any regulations respecting the practice of nursing, they would consult with the nursing profession first and foremost.

I'm afraid that the government may have backed away just a little bit from that commitment, because here we see a very important aspect of the practice of nursing being left to regulation, and the regulations go on with respect to training and experience that may be required for a registered nurse to provide these extended health duties and the conditions of employment.

11:10

The regulations respecting the conditions of employment caught my attention in a whole new way just today. As we learned yesterday, for example, Strathcona county wants to move from the Lakeland health authority into the Capital health authority. We know that whether or not it was clearly intended, every health authority has become an employer and is negotiating employment contracts with their employees and is making budget decisions in part based on what kinds of concessions they can get from employee groups and the kinds of working conditions and terms of employment that they impose on their staff. Now we are on the brink of seeing the potential collapse of a health region, of a regional boundary being redrawn and perhaps a change in employer status for a group of employees.

So we come back to where the government now takes it upon themselves to, on the one hand, give employer status to regional health authorities but on the other hand make specific regulations respecting the conditions of employment for registered nurses providing extended health services. Now, I see this as a recipe for disaster, because what you're going to have inevitably is a whole set of conflicts that I'm afraid will not be able to be addressed in a process of open debate but instead in some discussions that will inevitably end up behind closed doors.

What was Bill 5, which amended the Act to allow for nurse practitioners, was in fact silent on where those extended-duty nurses would be able to provide health services. Again, the location was left to regulation. So now we have one layer of regulations determining where in the province extended health nurses can practise, and you have another set of regulations talking about employment conditions and the kinds of training and experience. I'm not even sure that this is consistent with the mandate of the Member for Peace River, whose job it is to head up the committee, of course, looking at ways to eliminate superfluous regulation.

Now, I'm concerned that there are some other difficulties with the regulation sections. There are changes in regulations in respect to foundations. There are changes in regulations with respect to the handling and disposal of biomedical waste, to the financial matters relating to regional health authorities, and changes in regulations about the construction or location or operation of any kind of waste management facility let alone one that deals with biomedical waste. So once again, Mr. Chairman, a wide-ranging set of regulatory control without a lot of discussion from the government as to what form these regulations might take, what direction they're going in.

Again, what's troubling about the degree to which we are seeing the mechanics of this Bill being left to regulation is that the government is doing that and saying: "Trust us. We'll regulate it fairly and properly." The legislative amendments to the Public Health Act, which remove responsibility to a large extent for the handling of waste disposal in this province – they're also saying, "Trust us that we'll bring in some companion or complementary legislation." That legislation has in fact been tabled; it's Bill 39.

I have to wonder out loud, as did my colleague from Sherwood Park, about the timing and the sequence of this. If in fact the government is sincere about these two pieces of legislation dovetailing, I can't help but wonder why they weren't introduced at the same time. I can't understand, for example, why they weren't introduced in more of an omnibus fashion, as we saw, for example, in Bill 30, which you could properly title the miscellaneous health statutes amendment Act. Certainly the government has not been shy about combining a number of legislative initiatives together under the cover of one Bill. So I wonder why they didn't combine these. Could it be, Mr. Chairman, that there is a dispute going on in cabinet? Could it be that there is a dispute going on pertaining to the authority and jurisdiction of the Minister of Health and the authority and jurisdiction of the Minister of Environmental Protection? Could it be that they don't have the consensus of the stakeholder groups, such as the Alberta Public Health Association?

Could it be, Mr. Chairman, that they know in fact that they don't have agreement from those several stakeholder groups and that they purposely split these out so they could say, "Yes, we've consulted with public health people regarding Bill 27, and yes, we've consulted with Environmental Protection people pursuant to Bill 39," and never bring those people together at the same time in the same room so that they don't have to account for the differences and for the disparity in opinion. Unfortunately, again, we are left to speculation because there is no explanation forthcoming from the government, no defence of the poor timing of the introduction of these Bills, no briefing materials brought forward regarding how the two Bills will in fact be put into operation.

I will remind you, Mr. Chairman, that when we wanted to ask some of these questions of the officials within the Department of Health, we were informed that based on the Minister of Health's instructions, those civil servants, which are supposed to serve all the people of the province of Alberta, were instructed not to provide a technical briefing. Very disturbing. Why would that be? If these questions can be easily addressed and there's nothing sinister, there's nothing to hide, why would we be denied that information?

So it makes it very difficult at this stage of the Bill to give it support, in spite of the assurances from the Member for Lethbridge-West. Once again we are faced with a real paucity of information. We simply don't have the goods. We haven't been provided the wherewithal. I'm afraid that this begins to look like a bit of a trend, a bit of a pattern.

If you'll permit me to make a comparison to a document that became public today, which was the management letter provided by the Auditor General in respect to the management operations of the Capital health authority, one of the striking features of that management letter was the Auditor General's conclusion that one of the reasons why the Capital health authority is in difficulty is because it didn't have the information it needed to do its job and that the information systems weren't in place to provide it with the information it needed to do its job.

Now, the information systems, of course, are the responsibility of Alberta Health. The collection and then the analysis and distribution of that information would be the responsibility of Alberta Health. So here we have the Auditor General saying that somehow the government has not – and of course I'm paraphrasing; I'm not quoting the Auditor General. We have an Auditor General's management letter which comes to the conclusion that information wasn't forthcoming and that information was supposedly collected and held by the government. Here we have a Bill that we're being asked to vote on, and we don't have the quality or the amount of information we need to make a quality and competent decision. I'm afraid that this is getting to be a trend.

It's a trend that's reinforced again when we hear time after time, as we did this afternoon in debate, that we on this side of the House, on the opposition side of the House, should stop engaging in debate, that we perhaps shouldn't respond to the government when they fail to provide answers to written questions or motions, that we are wasting time, that we should get on with it, that we shouldn't do that on the floor of the Assembly, when we're simply trying to hold the government accountable for the decisions and actions that they've taken. Of course, that's a very irresponsible suggestion to make.

Again, it reinforces the sense that somebody's got the information, but it certainly isn't the Legislative Assembly. It may be some few members in government. It may be cabinet. It may be a couple of the backbenchers that the cabinet has invited into their inner circle, but it certainly isn't the Legislative Assembly. Mr. Chairman, I'm afraid that what we're dealing with here is another one in a series of Bills where a tremendous amount of important detail is being left to regulation, and then those regulations are matched with silence in terms of what their full breadth and scope and depth may be.

So in spite of some of the new information provided by Lethbridge-West, I still cannot support Bill 27.

11:20

[The clauses of Bill 27 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.

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

[Motion carried]

[Mr. Clegg in the Chair]

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

MR. HERARD: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration certain Bills. The committee reports the following: Bill 27. The committee reports the following with some amendments: Bills 17, 20, 21, and 25. 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 11:24 p.m. the Assembly adjourned to Thursday at 1:30 p.m.]