

## Legislative Assembly of Alberta

**Title:** Monday, May 13, 1996 8:00 p.m.  
**Date:** 96/05/13  
**head:** Government Bills and Orders  
**head:** Committee of the Whole

[Mr. Tannas in the Chair]

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

### Bill 34 Municipal Government Amendment Act, 1996

THE CHAIRMAN: We have amendment A5, as proposed by the hon. Member for Fort McMurray. The hon. Member for Fort McMurray is rising to add yet more information on A5, I'm sure.

MR. GERMAIN: Yes. Exactly, Mr. Chairman. Because of the break some Members of the Legislative Assembly may have lost track of where we are on Bill 34 amendments, and I want to deal with a couple of questions that arose in the debate on Bill 34 as it related to this amendment. Some of the questions came by way of a point of order rather than a full speech, but the information was still shared with the Assembly, so I'd like to share some information back.

Then I know that over the lunch hour the hon. Member for Calgary-Buffalo reviewed his notes on the conference he was at this weekend that dealt with regulations and I know will want to share with us some more illumination on this particular topic.

Now, the background, Mr. Chairman, is that we are amending section 370 of the Municipal Government Act. Section 370 of the Municipal Government Act is the regulations section. In this particular amendment section 33 deals with the addition of an amendment. Our proposal is to renumber the section, not changing any of its concepts but adding a new subsection (2), which requires that the minister, when he makes a regulation pursuant to the section, refer a copy of it to the Standing Committee on Law and Regulations, who will then advise the minister as to whether it is consistent with delegated authority provided in the Act, it is necessarily incidental to the purpose of the Act, and it is reasonable in terms of efficiency in achieving the objectives of the Act. The Standing Committee on Law and Regulations will, of course, then advise the minister.

Now, the hon. Member for Red Deer-North, the hon. Minister of Labour, pointed out that this amendment in its different forms has come forward before and with only, I would suggest, marginal success. So this, then, begs the question as to why members of Alberta's opposition would continue to bring forward this particular very useful amendment, an empowering amendment, which empowers a committee of this Legislative Assembly to deal with matters relating to regulations. That also, then, begs the question: why do we bring this forward? Is it simply that we are masochists that we come forward time and time again with the same thing? Or is it in fact that we believe strongly in this issue? I want to say that it is indeed that we believe strongly in this particular issue.

Now, the minister of transportation, who is also in charge of lotteries and gaming in the province of Alberta, rose on a point of order earlier and indicated that I had imputed false motives to him when I suggested that he favoured a review of regulations by this committee. He said that that could not be his stance because that was not the stance he took on similarly worded amendments when they appeared in Bill 6, the gaming Act. But this is a different

type of Bill, Mr. Chairman. This Bill deals with very important taxation issues and regulation of another level of government, the municipal government in the province of Alberta. There is a subtle but obvious and discernible difference between regulations that relate to how the minister controls individuals in the province of Alberta who might sell liquor for a living versus how municipalities should be treated by a superior level of government that in fact passes laws that are binding on them.

Just for example, Mr. Chairman, today we dealt with one regulation opportunity where the class of exempt property could be expanded. Now, that's an interesting issue, because every time the minister expands the class of property that is exempt from taxation, since every municipality in Alberta requires a certain amount of money to function, it means that they are forced into adopting a position taken by the minister that costs them tax revenue. And because they are obliged to contribute the school tax levy out of their own pocket, as I understand it, for that exempt property, not only does it cost them money from the erosion of their tax base; it costs them money from the extra cash that they now have to contribute that the taxpayers are not. So who bears the brunt of that? Is it the mayors and councillors in the local communities around Alberta? To a certain degree it is, but ultimately where does the buck stop? The buck stops at one of the taxpayers in the community.

The Provincial Treasurer is fond of saying that there's only one taxpayer. So even if the hon. minister of transportation, in charge of lotteries and gaming, did not endorse this type of regulatory review in his own Bill, it does not mean that in this particular Bill he will not or should not endorse this amendment. Indeed all Members of this Legislative Assembly know intuitively and know instinctively, Mr. Chairman, that this type of legislation, and this type of legislative amendment, is the right thing to do.

So we return to the issue. The subliminal question is: are we masochists to bring forward this particular thing time and time and time again? I want to use an anecdote from the school yard. If you had a young son who came home every day and was using foul language, every day foul, foul language. Now, some hon. members might wash the individual's mouth out with soap. That could be construed as cruel and unusual punishment, but let's assume for a moment that that's the thing that you do. Now, let's suppose that young lad is incorrigible and he continues to come home and voice those expletives every day. Do you continue with your plan of imposing the discipline, or do you give up and say, "Oh, he won't change, so why should I bother"?

We are not masochists over here, Mr. Chairman. We rise as the sun comes up in the east every day in the hope that each time we rise and speak on this, there is one more person amongst the government that has concluded that we are right on this issue of regulatory review. There is nothing in this for the Official Opposition. You know what there is in this? There is a bunch of work that the members who sit on this committee will voluntarily do.

The hon. Minister of Family and Social Services might feel that, well, it's a costly venture, so we shouldn't embark on the cost, but I say to you, Mr. Chairman, that the Legislative Assembly will record and has recorded time and time again the oral undertaking of the members of this committee that sit in the Official Opposition who have indicated that they will waive completely all committee fees from this particular committee if it is simply called to meet. So zero committee fees, Mr. Chairman. Zero committee fees.

Now, the chairman of this committee . . .

MR. HAVELOCK: Will take zero also.

MR. GERMAIN: . . . is a government member, and he says that he will take zero also. I think that when we are knocking on doors in his constituency in the summer, we will have to tell his constituents that he is prepared to chair this committee with zero committee fees. That is a laudable objective, a laudable goal, and the hon. Member for Calgary-Shaw should be commended on his position.

So we have an offer that if you were attempting to market something, you would say that it's an offer that can't be refused. It's an offer with no downside. It's an offer with no disadvantage to the government.

But what are the advantages? These are the advantages, Mr. Chairman. These are the advantages. First of all, for those hon. members of this Assembly that get tired of seeing an amendment like this or similar to this, that would end that . . .

THE CHAIRMAN: The hon. Member for Lacombe-Stettler is rising on a point of order.

**Point of Order**  
**Questioning a member**

MRS. GORDON: I was wondering if the hon. member would entertain a question?

MR. GERMAIN: Oh, certainly.

THE CHAIRMAN: He said yes.

**8:10 Debate Continued**

MRS. GORDON: I feel really bad. I am chairman of a legislative committee that's never met as well, and you never make reference to my committee. My vice-chair happens to be from Calgary-Fish Creek. We both feel very, very bad. We're in charge of looking after public affairs, and you never mention us, but Law and Regulations you talk about repeatedly.

THE CHAIRMAN: Well, I presume the question is: why don't you?

MR. GERMAIN: Why don't I mention it?

THE CHAIRMAN: But that would be off the topic; would it?

MR. GERMAIN: Although the hon. member's question is off the topic . . .

THE CHAIRMAN: Make it relevant to the amendment, please.

MR. GERMAIN: She indeed raises a good point. It is indeed in fact the case that hon. members may begin also asking questions of this hon. member's committee. However, I am sure that that hon. member would also waive her committee fees to do the valuable work of her committee. The reason that I didn't mention the committee is because I was talking about the amendments to regulations in the province of Alberta, and I was talking about the Standing Committee on Law and Regulations. So when the hon. member's committee is at the fore, I will appraise her committee and encourage them to do their good work. I will encourage them as well to consider waiving in the interests of the economy of the province the committee fees for sitting on that committee. I

appreciate the hon. member pointing that out.

Let me say while I'm on the topic of the hon. member that she has provided excellent service in this Legislative Assembly and does from time to time get up and engage in lively debate. I challenge her to continue to rise and speak out on issues that affect Albertans and to speak out positively when she hears and sees positive amendments. In that regard, I know that she will want to stand up and speak positively to this amendment.

Now, Mr. Chairman, before I took that question and did provide an answer, unlike some parts of question period, I was in the middle of explaining what the upsides were. Well, the first upside, as I was reminding the Members of the Legislative Assembly, was that they would be spared the continued review of the merits and the worthwhile objectives of this type of legislation. Now, some members may feel that that fact alone is sufficient to cause them to vote in favour of including this.

What are the other upsides? The second upside, Mr. Chairman, is that the committee, this high-powered, prestigious committee chaired by the hon. Member for Calgary-Shaw, himself a member of the learned profession of law, himself a Queen's Counsel learned in the law, would have a chance to provide a valuable second sober look at the government's regulations that come spinning off the wheels of progress over there and often fly out in uncontrollable and unidentifiable directions. So there would be the opportunity for that value-added review of the regulations. That's the second very important and useful criterion.

The third very useful, important criterion is that there would be, by nature of the committee meeting and by nature of the good work that the committee did and by nature of the review of the committee – and hon. members such as the hardworking Member for Calgary-Buffalo are on there. The hon. Member for Calgary-Buffalo, Mr. Chairman, was telling me that he does not have enough opportunity to speak in this Legislative Assembly. He's looking for more opportunity to add to the debate in this Legislative Assembly and in committee work. Hon. members, like the Member for Calgary-Buffalo, in their effort to prepare to discuss these regulations would reach out in a kind of outreach program, so the committee would also serve as an opportunity to encourage and receive feedback from members of society that are directly affected by these regulations. So the likelihood of a regulation catching someone by surprise would be much reduced, which would foster goodwill for the government. So those are three obvious advantages, but there is one other.

What is the one other? You heard today, Mr. Chairman, revealed for the first time in this Legislative Assembly that Alberta is one of the only provinces if not the only province where regulations are not reviewed by some form of committee. Those regulatory review committees can go from the extremely sophisticated, where they call evidence and take submissions, to the . . .

MR. DAY: Point of order.

THE CHAIRMAN: The hon. Government House Leader is rising on a point of order.

**Point of Order**  
**Clarification**

MR. DAY: Mr. Chairman, I rarely listen to what the Member for Fort McMurray is saying, and I should pay more attention. Citing Standing Orders 23(h) and (i), dealing with allegations, again we hear something that is just patently false, and that is that

regulations are not looked at by any external force or any external group or individual. In fact, that is absolutely untrue. Regulations are developed in consultation with the people that are being affected, in consultation with public groups, and also in reflection with legal counsel. So it may not be along the lines that the Member for Fort McMurray would like to see, which is in the job-creation category for MLAs, but it does occur. To say that regulation development occurs only internally is absolutely, one hundred percent false.

THE CHAIRMAN: This is a point of clarification. You wish to speak to the point of clarification, Fort McMurray?

MR. GERMAIN: Yes. This is twice now today, Mr. Chairman, that the hon. minister, who is extremely sophisticated and extremely qualified in the use of the Standing Orders, has broken into my comments to simply make an abbreviated speech. He has no point of order. He says that the regulations in this province are reviewed. Because there are other people who want to speak to this particular amendment, what I'll do is I'll wait, and after others have spoken, I will stand again in my place and dialogue with the minister again on the scrutiny that he alleges regulations are put to in this province and put that to the acid test, and I do thank him for raising that issue. He also raised another issue of job creation, and I'm ready to return to my commentaries now on the amendment.

THE CHAIRMAN: Okay. But we are amending this particular Bill with a specific amendment, so it really wouldn't be the time and place to review all the other kinds of things that may or may not be done with regard to the consultative process or lack thereof with regard to regulations. You were generalizing, and presumably the Government House Leader is speaking about that from a point of fact, but I'm just not sure if you're going to address it now and are going to come back perhaps after this amendment is over and when there's something that's more appropriate. I'm just kind of cautioning you at the outset that you might want to say your piece now.

MR. GERMAIN: If it was another issue, Mr. Chairman – you see, at the right time members will have to decide whether they support this amendment because of one of the good reasons that I believe I put forward or whether they not support it because of the allegation of the minister that regulations are being properly scrutinized and vetted now. That's very, very important criterion relating specifically to this amendment. That was the theme, and I hadn't given the Chair enough insight into where I was going on that theme. I do want to return to it, but before I leave the minister's point of clarification, I also want to talk about his allegation that this is a job-creation statement.

We already have a job. We're elected to represent our constituents as elected MLAs. I view service on committees to be part and parcel of that job. You're either here conducting meetings, which is really what this is, or you're in your constituency office conducting meetings or you're traveling to and from those locations or you're sitting on committees and conducting meetings or you're at caucus and conducting meetings. I view committee work as just part and parcel of it, but it would not be job creation if the individual has already disclaimed any desire to take extra remuneration for it. I can't understand why the hon. Minister of Labour, who himself is portrayed as a hardworking Member of the Legislative Assembly and a hardworking cabinet

minister, would object to an individual who wants to work harder. I mean, don't we want to lead by good example, and don't we want to show that we're hardworking here to rebut those people who allege in the communities that being an MLA is rather a soft self-aggrandizement job with lots of pay and money and perks to go with it? Don't we want to establish that we are hardworking individuals? I don't understand why the minister would criticize that, but I maybe don't understand all of his motives.

8:20

### Debate Continued

MR. GERMAIN: Now, we were talking about the committee that would then have this outreach program. That is not to indicate that the minister doesn't have his version of what constitutes outreach and study, but an all-party committee would give a fresh look to these issues that I think is useful.

So there are four good reasons, Mr. Chairman, why all Members of the Legislative Assembly should vote this time for this amendment.

Now, that leaves me to cover only one other issue that may be causing some nervousness, some anxiety, on the parts of some of the members opposite, and that may be that they do not want to appear to be inconsistent and they might be wondering why they would vote for this amendment tonight. They have voted against similar amendments and similar Bills at other times, and that's a fair comment, and I want to answer that question, if I might, Mr. Chairman.

Why they would vote differently tonight is because of the seriousness of what is at stake in the municipal government regulations. They deal with the taxation of Albertans. They deal with issues that go between another level of government and the citizens. They are in effect the code or the constitution of the manner in which municipalities govern themselves. As a result, they are different, then, than regulations which set speed limits, in terms of regulations which set the temperature that refrigerator trucks have to be kept at as they travel down the highway, and indeed, the regulations that indicate how old you have to be to work in an Alberta liquor store. All of those things are important, and all of those things should have led to the passage of this similar type of amendment, but that failure is not for us to dwell on tonight.

All Members of this Legislative Assembly can vote positively for this amendment tonight without being inconsistent with that which they have previously voted on similar amendments. I want to leave the members of this Assembly with that clear distinction, because it may affect the vote and it may lead to the passage of this particular amendment, and then we would be able to get on to studying this Bill, to dealing with this Bill at the third reading stage, instead of grinding along with this Bill in committee over these issues that are so very, very important to the people of Alberta but seem to be sometimes less so to the government of Alberta.

Now, Mr. Chairman, because I'm getting all kinds of indications here that others want to speak to this, I will take my place now and allow other good debate to continue on both sides of the House, including from the hon. Member for Lac La Biche-St. Paul, who is the sponsor of this Bill and who I know will want to contribute on this particular amendment as well.

Thank you, Mr. Chairman.

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

MR. DICKSON: Thank you, Mr. Chairman. The observations I

wanted to make are partly process and partly substantive on the specific amendment. The process issue would be this. We had the hon. Government House Leader once late this afternoon and then again this evening cite a section in the Standing Orders that would give basis and grounds to a point of order, and then he launched into a substantive discussion challenging the points that are being made in debate. He doesn't do it through the customary process of requesting leave to be able to ask a question, which is permitted under *Beauchesne*, but he uses the lever to get your attention and then proceeds to exploit the opportunity for an absolutely collateral purpose. A junior member of the Legislature like this member might be forgiven from time to time for stumbling into that sort of a procedural aberration but certainly not the Government House Leader, who is a very senior member of the Legislature. He knows much better, and I expect that the next time he rises, it will be at least a genuine point of order and not simply a chance to insert himself into the record at the time that he chooses to.

Now, let me deal with the substantive issue. The Government House Leader is sounding particularly indignant this evening, as he did late this afternoon. I went to reference the Blues, Mr. Chairman, to see exactly what the Government House Leader's concern is with this amendment that currently is in front of the committee. It was interesting. If we look at the text specifically of what the Government House Leader said in arguing against the amendment, even though he did it under a point of order, he talked about: the government has a process "vetted . . . by groups that will be affected by it." That's the Government House Leader's assertion in contrast to the amendment that's currently before the committee.

Well, let's put that to the test. "Vetted . . . by groups that will be affected by it." Now, we've heard a very clear declaration from the Member for Peace River, who chairs the government's deregulation task force, who has said very candidly, with his customary candour, that the deregulation task force for each department consults certain stakeholders. He said quite candidly many times in this House that they can't possibly consult every stakeholder. They consult those stakeholders that somebody in the department thinks should be consulted. So in no sense is it vetted by every group, by all groups that will be affected by it, only some stakeholders, and there will be some who are on the inside and who are listed on the government's hot consultation list, and then there'll be some other interests who aren't fortunate enough to make it to top 20 or the top 30 or whatever the list of consultant stakeholders is. When the Government House Leader asserts that all groups have an opportunity to review these draft regulations, clearly that's not the case, and I cite his colleague from Peace River as my authority for that proposition.

He went on to say that "all legislation is . . . vetted . . . by the public at large." Then he offers two ways this happens: "in this Assembly" and "by standing policy committees." Well, clearly in the Assembly this is the one place and uniquely the only place where it can be said that all Albertans are represented. The legislation is vetted here, but when the minister talks about "all legislation," he obviously isn't reading the amendment, because the amendment has nothing to do with legislation, other than the fact it would amend a piece of legislation. The focus of the amendment is regulation. That's what we're talking about – subordinate legislation, regulation, orders in council, that sort of lawmaking – and it's absolutely clear that those matters aren't dealt with, have never been dealt with by the Legislative Assembly. So the Government House Leader is absolutely wrong on

that count, and the record will demonstrate that it's factually inaccurate.

Now, he also said, "by standing policy committees." This will be of interest to I think that small number of keen *Hansard* readers where he said, "Yes, albeit they are government." The Government House Leader again gets mischievous and would have us forget that he's a senior member of the Legislature who is very comfortable with the Standing Orders and *Beauchesne* and parliamentary process, and he knows very well that the standing policy committees are made up entirely of government members. Now, that's not just a slight difference; it's a major difference.

If we say that the Legislative Assembly is the only place where all Albertans are represented, it might follow that a standing committee with representation from both sides of the House would retain that same character, that same feature, that in fact it would be said to be representative of Albertans, but a standing policy committee the cynic may say was simply a creation of the current Premier, who wanted to reduce the size of his cabinet but be able to obtain the same salary level and the car benefits for those members who would no longer be members of cabinet but by being chair of a standing policy committee get access to a car, a budget, and be able to get the same kind of salary they would if they were a cabinet minister. So the standing policy committees are a creature of the Conservative caucus, a creature of the Premier's office, do not in any sense reflect the character of the Legislative Assembly: have not, will not, and cannot by their very nature. The standing policy committees: it's a terrific way for the government to be able to encourage groups to come forward and make their presentations, but it's not an adequate substitute, cannot be an adequate substitute for an all-party committee. If one looks around the country in other Legislatures, other provincial Legislatures, what one finds, Mr. Chairman, is that their committees which hear representations are made up of members from both sides. That's the way it works with the federal House of Commons; not the case in this province, but hardly something I think the Government House Leader would want to make much of.

### 8:30

Now, the other interesting thing that's clear from the *Hansard* Blues, in speaking to the specific amendment before us, appears once again where the Government House Leader said, "Yes, albeit they are government and independently, independent legal review by Leg. Counsel." Now, this is one of the most interesting comments from the Government House Leader, Mr. Chairman. In fact, what we've got is this. He now expects that in some fashion Parliamentary Counsel – now, he said Legislative Counsel. There are two explanations that may apply here.

Legislative Counsel exists in the Department of Justice to assist the government only, so clearly a government employee is not going to provide an independent legal review. Impossible. The lawyers for the Department of Justice, the Legislative Counsel, are employees of the government of Alberta, not the Legislative Assembly of Alberta. When they give opinion, it's opinion to the cabinet and opinion to the cabinet ministers and opinion to the government caucus. So they don't provide any independent legal review.

Now, maybe the Government House Leader in a fit of hyperbole got carried away, and really what he meant was Parliamentary Counsel, who are attached to the Speaker's office and provide independent advice to both sides, to members in terms of drafting Bills. But, Mr. Chairman, that is a review in here, in the Legislature, when we're dealing with the mother statute, with the

enabling legislation, not with committees and subordinate legislation. So there is no independent legal review.

The Government House Leader went on to say "incredibly thorough review" and "vetting from many different levels." Well, we've seen that there is no adequate review of regulations. We have a review by another government committee which is not arm's length in any sense. "Vetting from many different levels": not in any adequate sense.

So where we're left, Mr. Chairman, is that we come back to the amendment that is before the Legislative Assembly. As I'd indicated this afternoon, when virtually every other parliamentary democracy that anyone can think of – and I challenge anybody to identify a parliamentary democracy where there is not some kind of all-party scrutiny of regulations. We're clearly out of step in this province.

The Member for Calgary-Egmont, it seems to me, went to a Canadian parliamentary conference; it would have been a year ago. I remember reading the text of some comments he made at that conference. He was talking with a number of other parliamentarians about his experience and the way things are done in the Alberta Legislature. Well, I challenge that member to tell me of another provincial representative or member of the House of Commons who was able to stand up and share with him a legislative experience they had where you have the government co-opting all of the review of regulations and trying to do it through really bogus committees as a means of trying to challenge it.

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

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

#### Point of Order Questioning a Member

MR. HERARD: I wonder, under *Beauchesne*, if the member would entertain a question.

THE CHAIRMAN: The hon. Member for Calgary-Buffalo just has to say yes or no.

MR. DICKSON: I'd be delighted to entertain such a question, Mr. Chairman.

THE CHAIRMAN: I think the answer is yes, Calgary-Egmont.

#### Debate Continued

MR. HERARD: Well, I wonder how you'd have, you know, multiparty committees to do this when after the next election there won't be an opposition.

MR. DICKSON: Mr. Chairman, I'd encourage the Member for Calgary-Egmont to keep daydreaming, because that is as close to reality as it will ever be. It'll simply be a matter of his daydreaming. [interjection] One of my colleagues wonders whether that member is going to be back. I can't predict that any more than he can predict which of us will return. I'd suggest to the hon. member that he focus more in terms of how we make this legislative process work for Albertans instead of trying to predict what the outcome will be of the next provincial election.

So, Mr. Chairman, I've gone through and I've tried to take each of the elements of the Government House Leader's com-

ments made this afternoon and then again this evening and deal with them as specifically as I possibly could. There were one, two, three, four, five, six comments he made that are part of *Hansard* this afternoon when he made exactly the same point, ostensibly, of clarification. I think the record and certainly the *Hansard* for past debates will show that the Government House Leader in this respect ought to know much better than to in fact misrepresent the regulatory review process that his government has embarked on as something that is anything more than an in-house, nonrigorous review.

So those are the comments I wanted to make, and I expect and encourage other members to join debate on this important issue.

Thank you very much, Mr. Chairman.

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

MR. HAVELOCK: Thank you, Mr. Chairman. Actually, this is more by way of a point of information, if there is such a thing. I think the hon. members of the House should realize that just last evening the wife of the hon. Member for Edmonton-Manning gave birth to an eight pound, nine and a half ounce baby girl. Angela, the mom, is doing very well. The girl's name is Olivia Rose, and she was born at the Royal Alex hospital, which means that Olivia comes with a 75-year warranty.

AN HON. MEMBER: How's dad doing?

MR. HAVELOCK: Dad's just fine. Anyway, I think, members of the House, we should join in congratulating the member.

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

MRS. ABDURAHMAN: Thank you, Mr. Chairman. Indeed it is a very important event when we see a new Albertan being born. I sort of envy my colleague because, you know, in the days when my first two were born, my husband, even being a physician, wasn't allowed in the birthing room, if you could believe that. It was so archaic.

Getting to the amendment to Bill 34, I will continue to rise to speak to this amendment when it's brought forward to amend legislation that this government is bringing forward where it does not allow for regulations to be reviewed through what I call a truly democratic process. Every time certain members in this Assembly are bypassed, that's another death knell for democracy. I get absolutely appalled when I hear members in this House – and it was the Member for Calgary-Egmont who got up a few minutes ago and in the pretext of asking a question to the hon. Member for Calgary-Buffalo suggested that it would serve Alberta well if there was no opposition sitting in this House. To my mind that shows an arrogance that serves nobody well in this Assembly or in the province of Alberta. [interjections] You know, Mr. Chairman, they're saying I should get the facts right. I think *Hansard* will clearly show what was the motive behind that question that wasn't a question.

Dealing with the democratic process and allowing all members elected to this Assembly, irrespective of what their political affiliations are, to have a right to be part of the process to review regulations: that's what's being asked. Yet the House leader infers, when he gets up and asks a question under a point of order, that indeed all members of this Assembly have the right to review regulations in the future or indeed regulations that are

going to be rescinded or new regulations that are going to become part of the legislative process in the province of Alberta and that we as Official Opposition members have access to that. That is not accurate. We are not consulted when regulations are either being amended, rescinded, or are being developed. We're not part of that process. We do not have a say in the final say of any regulations that result in governing the people of Alberta. And, you know, Mr. Chairman, it's not the legislation that truly is the meat of legislation. It's the regulations that really are the power behind that legislation.

**8:40**

One of the things that three years ago I felt very strongly about was that if we'd had a truly democratic process in this House, we would never have allowed a government to accumulate over a \$30 billion debt. Because we do not have a truly democratic process where all Members of the Legislative Assembly indeed have a say in what happens when it comes to – whether it be regulations or whether indeed at the end of the day it's in that truly open budget process, there's no such thing. History will show us that it indeed was the Executive Council that was all-powerful, and even the private members on the government side were as impotent as the members of the Official Opposition.

So I would suggest to the Member for Calgary-Egmont that when he suggests that there indeed may be no Official Opposition and that it's a Liberal government which fills this Assembly, I would object even then because it would not serve Albertans well. We have to ensure there's a balance within the Legislative Assembly. We should have fairness, and there should be equity in that development of the legislative process. That doesn't exist in this province. It doesn't exist in this Assembly.

The rules and regulation committee is a prime example of where this Legislature fails the people of Alberta by not allowing that committee to meet. I can only assume, Mr. Chairman, that it is indeed the Executive Council, which is all-powerful, that prevents the Member for Calgary-Shaw from calling this committee to order. I'll be quite frank with you. If I were the chairman of a committee like that, I would quickly tell the leader of that party, whether it was the Official Opposition or whether it was the government, what to do with the chair of that committee. I would find that quite insulting. It's bad enough seeing a process of Public Accounts that doesn't equate itself to 1996, so that we're still back in the '70s or the '60s and we haven't moved forward when it comes to full accountability.

MR. DICKSON: It used to meet then. We've moved backwards.

MRS. ABDURAHMAN: Yeah. In essence, that has happened when it comes to the rules and regulations committee. They did meet at one time.

Now, if indeed in this Legislative Assembly the former Premier Lougheed in his wisdom allowed the rules and regulations committee, I'm wondering what this present Premier has been told that made him make this decision that he would allow these appointments to be made, that you'd have a member of the government with this grand title of chairman of the rules and regulations committee but with absolutely no authority. It's like telling a child, Mr. Chairman, that you've earned something, but you don't really give them anything to show that they've earned something.

I would think that for any Member in this Legislative Assembly, when they're given a portfolio of minister or they're given the chair of a committee, indeed it's a recognition that you have

some skills and talents they want you to use in that capacity. So why would a member of the government accept an appointment from, I'm assuming in this instance, the Premier of the province of Alberta through probably the party Whip, or whatever that process is, who says, "You can be chairman of the rules and regulations committee"? Well, what kind of message is it giving to the individuals when you're not allowed to meet and do the job of chairman of the rules and regulations committee? So it makes a mockery of the process. Quite frankly, I find it quite insulting as an Albertan and a member of this Assembly that we've got these chairs out there that in essence are defunct committees.

Now, the other thing is, Mr. Chairman, that I would like to be part of that process of the evolution of regulations. I would like to have the prerogative of looking at what the regulations are that are governing the all-powerful minister of environment if Bill 39 passes the way it's written today. With those regulations I will have no ability. Whether it's the Municipal Government Act, dealing with municipal councils, or whether it's environment or whether it's health, this same thing is fundamentally wrong. That rules and regulations committee that has all-party representation on it should meet, and it shouldn't be at the whim of the Executive Council. It should be within the legislative mandate of this Assembly. No government should have that kind of authority. It undermines the democratic process. When the House leader gets up here and tells us that somehow regulations are reviewed out there – yes, they're reviewed by a select group of people that has been selected by that government over there. That doesn't serve municipalities well because it's only . . .

MR. HLADY: What about the government over here?

MRS. ABDURAHMAN: You know, the member on my right is saying: what about the government members over here? Well, Mr. Chairman, it's been my observation that they don't take it very seriously. I can understand why they have been put over here: to create a little bit of distraction when the Member for Clover Bar-Fort Saskatchewan is debating the merits of the rules and regulations committee under Bill 34 and why it's important for this amendment to be brought forward. Quite frankly, it doesn't work. After a while it's like when your child is being naughty; you tune your child out. You hope that the guardian or the parent will reprimand them at the appropriate time, and the Chair, the Speaker does that. He brings this group on my right to order when it's appropriate to do so, and I welcome that appropriate discipline being demonstrated in this House.

Now, I firmly believe that we would not be doing our legislative duty, our responsibility, if and when any piece of legislation has significant ability for regulations to be developed, to not have this amendment before this House. If I am in this House, it is my intent to get up and debate the merits of inclusion of the rules and regulations committee being part of any legislation.

You know, Mr. Chairman, the government members say time and time again: why are you doing this? Well, you know, we wouldn't have seen the Second World War if people had been ever vigilant and making sure that the hatred that was being enticed into society and into communities had been checked. You know, it's the same in the Legislative Assembly. It's all too easy to sit down and not do the job that in essence Albertans are paying us to sit in this Assembly for. We're here to represent average Albertans, not special interest groups.

MR. DICKSON: Normal Albertans too.

MRS. ABDURAHMAN: Yes, it could be the normal Albertans, although I somehow doubt that the normal Albertans I'm talking about are the ones the Premier talks about. I think his definition of a normal Albertan would be rather different from my own.

What we're doing through this regulation is saying that every Member of this Legislative Assembly represents all constituents irrespective of what their party affiliation is. I'm here to represent every constituent in Clover Bar-Fort Saskatchewan. Their MLA has a right to participate, whether it's through my colleagues, a colleague on that committee, to review the regulations or to develop regulations in conjunction with other interested parties. That right is denied us. That's not democratic. That's being autocratic, it's being dictatorial, and it's moving a democratic right out of this House. I do not believe for one minute that that's what Albertans want.

**8:50**

Mr. Chairman, if we look back three years ago at what Albertans were asking for from all of their elected officials and even going back to the last municipal elections, which fits in beautifully with Bill 34, they were asking for their elected officials to be open, to be accountable, and to listen to what people were saying. Now, you can't come into this House and say, "Sorry; you happen to be sitting on the Official Opposition benches, so you don't have the right to be fully responsible for regulations," or that there's a lack of openness in my input into the regulations process. That's what is being denied through this Assembly, through myself back to my constituents. It's not just to the Member for Clover Bar-Fort Saskatchewan; it's to all the people out there in municipal government.

I can remember, Mr. Chairman, running in an election where the assessment base – newer legislation had just been introduced – not only defeated myself, but it was used very effectively at the municipal level that we created this. In essence, it was the provincial government that created this. In fact, I think if you spoke to the former Member for St. Albert, Myrna Fyfe, she would tell you what happened to her, and if you look at Julian Koziak and a number of other people around the Edmonton area when it came to the introduction of that new philosophy of assessment base by the provincial government.

Well, you know, I would suggest, Mr. Chairman, that some of the legislation that's introduced hasn't served Albertans in a positive way. If there had been input from all members of the Legislature, we might have better legislation. We'd not see amendments to legislation coming back, legislation that doesn't do what it was perceived to do in the first instance. Bill 34 to some extent is doing that. The rules and regulations committee would go a long way to ensuring that there would be all-party representation in reviewing those regulations that municipal governments are going to have to live with. Indeed when you look at other parts of Bill 34, which we spoke to earlier today, if the Official Opposition's amendments were taken seriously and accepted on the merits that they're put forward on, we would have much stronger legislation, much more productive legislation that serves Albertans well, if partisan politics were set aside.

With those comments, Mr. Chairman, I will take my seat.

THE CHAIRMAN: The hon. Member for West Yellowhead.

MR. VAN BINSBERGEN: Thank you, Mr. Chairman. I'd like to speak to the amendment that is before us, and I would like to perhaps once again state the refrain that has been so often heard in connection with our call for the convening of the Committee on

Law and Regulations. I am at an absolute loss to understand why there is this consistent reluctance on the part of the government side to call this committee to arms.

I can only surmise that that constant refusal to do so is motivated by any one or all of several reasons. The first one, I think, is that notion that absolute power should never be shared with the light of day, let alone with the opposition. I think, Mr. Chairman, that it is a very dangerous notion, and I'm tempted to remind the members opposite to remember Lord Acton's admonishment that absolute power corrupts absolutely. I'd hate to have that happen to our colleagues on the government side.

[Mr. Herard in the Chair]

Then there is possibly a second reason why there is this consistent refusal to call the Committee on Law and Regulations to a meeting, and that is that probably the government has absolutely no idea what regulations ought to be written up in connection with this Bill. They will be hammered together on sort of an ad hoc basis as the need arises in the next year or so, and it probably would be embarrassing to call that committee into being to have them scrutinize something that doesn't exist. Of course, they could ask the committee to perhaps come up with the necessary regulations. That would be a newfangled notion, to say the least.

Then, Mr. Chairman, I've isolated a third possible reason as to why there is this reluctance to call the committee into being. I think that may in fact be caused by a basic lack of trust in the capacity, in the ability of the chairman of that Committee on Law and Regulations. It may just be that the majority of members on the government side feel that this chairman, brilliant though he may be, at times behaves somewhat like a cannon that has lost its moorings on board a deck, and consequently it might be safer to sort of leave the cannon totally . . .

MR. HAVELOCK: Decannozed.

MR. DICKSON: With a rusty muzzle.

MR. HAVELOCK: My muzzle's not rusty.

MR. VAN BINSBERGEN: Decannozed. I don't want to get into any comparison of muzzles, Mr. Chairman, as inviting as it may be. I'm sure that his muzzle is rustier than mine, but that is not at issue here.

I think that earlier we had said on the subject of the chairman of that much-vaunted committee that he had been unduly deprived of any possibility of creating some extra income, but now I want everybody to know that this chairman, having been infected by this contagious enthusiasm by the members on this committee who are members of the opposition, has agreed to forego any remuneration, to in fact sit, work and labour hard pro bono or pro Deo, if you're a religious person. I think that that ought to be appreciated. That alone, in my view, constitutes reason enough to call this committee into operation. We have to admit that such an offer really sets a revolutionary trend by a band of brave altruists who together are motivated by their deep, profound desire to scrutinize all those regulations and to do that in the light of day, not in the darkness. They are keen to get at it.

Now, Mr. Chairman, I want you to know, as I'm still speaking to this amendment, that I would like to back up my assertions here by referring to one mention of the word "regulations" in this Bill,

which is, of course, like most of the Bills, an amendment Act. If you care to turn to page 11, then you will find there section 362(n) under the amended section 28. It states that section 362(n) is amended by adding "and any other property that is described in the regulations" after "regulations." Now, I did in fact do a double take when I read all that, and I quickly added the words as I was asked to do. Then it reads thusly, and I invite you to explain that to me, you or perhaps the author of the Bill or the sponsor of the Bill. We read now: "and that meets the qualifications in the regulations and any other property that is described in the regulations." Mr. Chairman, I submit to you that that is akin to the Chinese language. So I think that if ever there was a need for sober second thought, to take these regulations and bend them into some sensible shape so that they can be comprehended . . .

9:00

MR. JACQUES: Point of order.

THE ACTING CHAIRMAN: The hon. Member for Grande Prairie-Wapiti is rising on a point of order.

**Point of Order  
Admissibility of Amendment**

MR. JACQUES: Mr. Chairman, I've been listening with interest, and I want to refer to *Beauchesne* 698, regarding the admissibility of amendments in committee. One of the understandings, as I understand it, in terms of amendments in committee stage is that if there indeed has been an amendment put forward and that amendment is defeated and in the subsequent process an amendment is made which subsequently refers to an item that has already been dealt with by the committee – I refer you to *Beauchesne* 698, various sections in there but particularly (2).

I would point out that on Bill 34, the previous amendments that were introduced, there was a debate. I forget the item on it, but it was effectively that section 28 be struck out. Section 28 in the Bill says: section 362(n) is amended by adding "and any other property that is described in the regulations" after "regulations." Now, at this point the amendment is referring to section 33. It amends section 33, which is amending section 370, which in turn is really referring to the original section of the Bill, which is 362(n), which deals specifically "with property that is owned by a municipality," et cetera, et cetera.

It would seem to me, Mr. Chairman, that indeed we have dealt with the key issue, which was section 28, because the member wanted it to be removed entirely. Now, coming back at it from another direction, it would seem to me that we've effectively dealt with that already in the previous amendment. If I follow the logic through in *Beauchesne*, not being a learned lawyer like so many across the way, it would seem to me that by following that rationale, why would we be continuing or allowing the debate at this point unless section 28 is somehow not relevant? But it appears to be because they're talking about the same two sections.

Thank you.

THE ACTING CHAIRMAN: On the point of order.

MR. VAN BINSBERGEN: Mr. Chairman, I've listened with interest to the arguments put forth by the Member for Grande Prairie-Wapiti, and I'm glad that he finally woke up. After the fourth speaker on this particular amendment, he finally came up with this somewhat, if I may call it that, arbitrary argument. I submit that there is absolutely no point of order. We're speaking about a different amendment.

THE ACTING CHAIRMAN: Hon. members, this particular amendment has been approved by Parliamentary Counsel and therefore must be in order. However, the hon. Member for Grande Prairie-Wapiti does make an interesting point. We will have to look at the Blues and reserve judgment on the point of order based on studying the details of your argument. I couldn't possibly follow it totally, but we will reserve judgment with respect to that and allow continued debate on the amendment.

The hon. Member for West Yellowhead.

MR. VAN BINSBERGEN: Thank you, Mr. Chairman. I always marvel at your ability to rule so wisely.

**Debate Continued**

MR. VAN BINSBERGEN: I'd like to return to the thrust of my argument when I was so rudely interrupted. No, I take that back. When I was so politely interrupted.

MR. JACQUES: Point of order, Mr. Chairman.

THE ACTING CHAIRMAN: The hon. Member for Grande Prairie-Wapiti is rising on a point of order.

**Point of Order  
Repetition**

MR. JACQUES: Thank you, Mr. Chairman. I refer specifically to Standing Order 23(c) and *Beauchesne* 459 with regard to repetition. I raise it on the basis, as the hon. member who was speaking pointed out, that he is the fourth speaker speaking to it, and essentially the debate in terms of repetition has been virtually the same with all of the four speakers. In some cases each of the speakers was speaking the same thing that they'd already started off with. So I would ask you to kindly consider that.

MR. DICKSON: On the point of order.

THE ACTING CHAIRMAN: The hon. Member for West Yellowhead first on the point of order, please.

MR. VAN BINSBERGEN: Yes. Thank you very much, Calgary-Buffalo, but I think I can peel my own potatoes here.

Mr. Chairman, I am beginning to be irked once again here by the allegations from the member opposite that I haven't said anything new. I invite you to look at *Hansard*. I don't quite remember what I said, but I do remember one thing. It was absolutely unalloyedly, brand spankingly new.

MR. DICKSON: On the point of order.

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

MR. DICKSON: Mr. Chairman, I think there's ample precedent by the Speaker of this Assembly in terms of Standing Order 23(c), "persists in needless repetition," that the repetition is within the context of a single speaker's speech. Eighty-three MLAs can all stand up and make the same point on behalf of their 38,000-odd constituents. That's been the ruling in the past of the Speaker. It makes eminent good sense.

For the objector to suggest that in some fashion now the right of speech of any member of this Assembly is going to be in some way abridged or limited because they happen to be making a point



that has been made by another member of the Assembly impinges on the most fundamental right that any member has in this Assembly. I hope that you will affirm that ruling made on countless occasions by the Speaker of this Assembly and dispatch this kind of objection with the kind of dismissal that's warranted.

Thank you very much, Mr. Chairman.

THE ACTING CHAIRMAN: Hon. members, I have to agree that there is nothing in our Standing Orders presently that would deal with repetition from the point of view where repetition is for repetition's sake or for the sake of delaying proceedings, which is something that we could perhaps address the next time we look at Standing Orders, but for the time being I have to agree that there is nothing in our Standing Orders that would prohibit what is going on.

The hon. Member for West Yellowhead.

MR. VAN BINSBERGEN: Thank you, Mr. Chairman. I submit that the member opposite is unduly lengthening this debate by his repeated infernal points of order.

#### Debate Continued

MR. VAN BINSBERGEN: Okay, Mr. Chairman; I'll get back to the business . . .

THE ACTING CHAIRMAN: The hon. Member for Grande Prairie-Wapiti is rising on a point of order.

#### Point of Order Admissibility of Amendments

MR. JACQUES: I refer to *Beauchesne* 699, specifically "Amendments Ruled Out of Order After Discussion Begun." It refers specifically in here, Mr. Chairman, that the chairman can give direction to the "committee's attention to this fact," and it uses some examples: "that the question raised thereby had already been decided by the committee." Again I refer you to the previous amendment which was an integral part and in reference to this particular amendment which is before us now.

9:10

MR. VAN BINSBERGEN: Mr. Chairman, am I supposed to defend myself once again on the same point of order, unwarranted allegations? I submit there isn't even a shade, even a remote image or reflection of a point of order here.

THE ACTING CHAIRMAN: Again, hon. members, the particular amendment that we are dealing with has not been decided on. It is being debated at the moment. The fact that it may be referring to some other matter that was previously defeated is something that perhaps the hon. member has a point on, and we will have to check the Blues to see if it does in fact hold water.

In the meantime the hon. member can continue his debate.

#### Debate Continued

MR. VAN BINSBERGEN: Mr. Chairman, it gets to be difficult to wind up, to end one's peroration, but I'll try it once again. Before anyone else jumps in, I'm really getting close to the end of my words here. I just wanted to once again call on all members opposite who have been lulled to sleep over these past three years by the use of the repeated utterings of the mantra "transparency and openness" to rise up and throw off the shackles that have been placed upon them by their leaders and to simply

insist that the Committee on Law and Regulations be convened.

Thank you very much.

[Motion on amendment A5 lost]

[The clauses of Bill 34 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.

#### Bill 35 Personal Directives Act

THE ACTING CHAIRMAN: Hon. members, we're on amendment A2 as proposed by the hon. Member for Calgary-*Buffalo*.

MR. DICKSON: Mr. Chairman, my colleague from *Sherwood Park* I think ably introduced this the other day. There's little else to add to it. It's a straightforward amendment. It's a remedial amendment. One would expect that even the Government House Leader, hook and all, would embrace this particular amendment. I think little else would usefully add to it. I think the amendment is self-explanatory.

[Motion on amendment A2 lost]

THE ACTING CHAIRMAN: Hon. Member for *Calgary-*Buffalo**, is it your intention to label number 2 as A3?

MR. DICKSON: That's precisely my intention, Mr. Chairman.

THE ACTING CHAIRMAN: All right. Continue with A3, which is number 2 on your notice of amendment.

MR. DICKSON: Speaking to amendment A3, this remedies what I think is an oversight in the original Bill. What in effect this amendment does is to acknowledge that if your spouse in fact is designated as the agent in a personal directive, subsequent to a divorce that appointment, if you will, would be found to be a nullity. The designation of the spouse as agent is revoked.

It simply means this. Pursuant to this Act if I've appointed my spouse as my agent and my wife and I then go through a marital breakdown that results in a divorce, just because I don't happen to get around to taking steps to revoke this, my ex-spouse may be the very last person I want making that critical decision in terms of whether my life is going to be maintained and how aggressive treatment is going to be to keep me alive. I don't want to be overly melodramatic, but I think this is a constructive suggestion. It recognizes that if you make something while you're still married, there is an expectation, of course, that your marriage will continue. When your marriage has broken down, that's a pretty good indication that there's not a lot of trust between the two partners. It just makes, I think, very basic common sense

that in such a circumstance the designation of your spouse or former spouse would be treated as void.

Now, if there's a problem with this, I'm hoping that the mover of the Bill will indicate what that is. To me this does not in any way impede or impair or interfere with the impact of Bill 35. Bill 35 continues to be a useful instrument, but I think it does address an oversight in the original draft of this Bill. So I'd like to encourage the mover to take her place and indicate specifically whether she will accept this amendment or not. If not, I'm hoping the Member for Three Hills-Airdrie will tell us specifically why not and give us some reasons so we understand. That would be useful to help us frame the debate before other speakers get involved. So I'd encourage her to take this opportunity, Mr. Chairman.

Thank you.

MS HALEY: Well, just very briefly. One of the Acts that's been in place is the enduring powers of attorney Act. It's been in place since 1991. It doesn't have a clause in it that revokes it upon divorce. It was felt that there was no need to do it with this one either, partly because when you're making a directive, you can include a clause that would say, "If I become divorced and my agent is also my spouse, this personal directive would automatically be revoked." You can write that in ahead of time, just as you could write in a date that said, "In one year from the date of signing, this directive is rescinded," and that's the end of it. So it's really up to the individual.

Not every couple that gets divorced is enemies. I think that for people in their 30s and 40s that are getting divorced today, if they're having to rewrite their will and their mortgage papers and they've taken the time to do a personal directive, I think that, too, will be important to them. They will want to make sure that they update it. It's about self-determination. I think that self-determination is important in all our legal affairs, especially this one.

MR. DICKSON: Mr. Chairman, I thank the member very much for standing to give the explanation. Just by way of clarification, I certainly never suggested that every divorcing couple is mortal enemies, but it's a major circumstance. In a great number of cases after a divorce you do not have a tremendously harmonious situation.

Now, the member says that with enduring powers of attorney this hasn't been a problem since 1991. I have some difficulty with that. We're trying to make the best law we can, not just for a couple of years but for a long time. I think each of us can speak from our own personal experience and recognize that this is likely going to be a problem.

The other comment the member made is that the person can think of this at the time they make their personal directive. On the one hand, I thought what we were trying to do was simplify this. I thought what the member wanted to do was ensure that lawyers didn't have to be involved. I respectfully suggest that there are plenty of people who are not going to turn their minds to: what would happen if I got a divorce? People frequently don't think of that.

So I appreciate the explanation of the Member for Three Hills-Airdrie, but I say again, Mr. Chairman, that I think there's a gap and an omission and that this amendment A3 would help to remedy that. I encourage members to simply ask themselves whether the explanation given by the Member for Three Hills-Airdrie really reflects their own life experience, reflects their own expectations.

With that, I'd encourage other members to join the debate on this important issue. Thanks, Mr. Chairman.

9:20

[Mr. Tannas in the Chair]

THE CHAIRMAN: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you very much. The hon. Member for Calgary-Buffalo brings forth a very courageous and a very inciteful amendment when he suggests that there should be an automatic voidance of a personal directive when there is a divorce. Now, that is interesting, because I suppose there is another combination and permutation that could be a revocation of this type of personal directive if somebody remarries, which is exactly what happens in a will. If you have a will and you get divorced and then remarry, the will that you had, presumably favouring your previous spouse, is in fact revoked by a remarriage.

This particular amendment is useful, Mr. Chairman, because it tries to codify what is a very common life experience. The hon. Member for Three Hills-Airdrie is correct: not all marriages end in acrimony. But one has to wonder whether you would want somebody whom you've divorced still to have the critical decisions, including the one whether you are going to be given the necessities of life in the event of a stroke or in the event of a loss of capacity to deal with some or all of your personal legal affairs or whether you are going to have perhaps some concern about directives on your file that say, "Take no aggressive steps to resuscitate," and that sort of thing. I think most people, if they were confronted with the situation, would perhaps not think about this.

One of the experiences that I've had, Mr. Chairman, as a practising lawyer of some considerable years – and I'm not going to comment on whether I'm any good at that craft or not; I obviously at one point must have thought that I should seek safe haven here in the Legislative Assembly. Assuming that there are some that might think that I had some skill at my craft, I have to tell you that one of the hardest documents in the world to get people to sign is something we call a prenuptial agreement. That's of course an agreement that says what's going to happen to their property if they divorce. Before some hon. members jump up and say, "How is that relevant to this debate?" let me bring a circle to this debate now.

It is very hard for people in the good times to contemplate the bad times. That is why people on the eve of their marriage will seldom take the time to prepare a prenuptial agreement. In fact, one American tycoon, Lee Iacocca, in his own book on his life blames the difficulty with a prenuptial agreement on the collapse of his second marriage because right up to the date of the marriage ceremony they were working out details, contemplating would happen in the event of a divorce. That means and that tells me, with the greatest of respect to the hon. Member for Three Hills-Airdrie, that nobody who is prepared to entrust somebody with their personal directive is going to put a clause in the agreement up front that says, "Oh, by the way, if we get a divorce, this personal directive is gone." Nobody is going to do that for the same reason that they don't like prenuptial agreements and for the same reason in some cases that they decline to buy life insurance: because it's an unpleasant topic. Nobody wants to confront it, and nobody wants to deal with it.

Now, should that mean that we shy away from it? Should we say, "Well, you make your own bed; you lie in it"? Should we

say, "We can't help you"? Should we say, "That's going to be a rare possibility, so we won't deal with it"? Or should we take time this evening in this Assembly, when we're debating progressive legislation, legislation that will be a model for other jurisdictions perhaps, legislation that will stand the test of time, and go out of our way to make this the very best piece of legislation we can?

I think it would be an improvement if we put in this particular Bill the amendment proposed by the hon. Member for Calgary-Buffalo. He takes the more proactive approach. He says that you can contract out of this amendment, but if you don't do so, if you make the directive with your spouse as the designated agent and the marriage is terminated by a divorce or is declared to be a nullity, then the designation of the spouse as the agent is revoked. So that means that this document would terminate on the divorce unless you agreed otherwise.

For the hon. member to suggest that the appropriate answer is to agree otherwise in advance or to agree to terminate on divorce in advance puts an unfair and inappropriate pressure on the couple when they are working out the intimacy of these types of details. Much better, I would think, to put into the agreement that it will survive a divorce. More strategically, most advisers would probably just raise the issue and say, "That's what the law is, and the law is there because it makes sense." And the people would say: "Oh, good idea. Yeah, if I'm divorced from this woman, I do not want her making those life-or-death decisions relating to my personal directives."

So I would urge all members to get up and take part in the debate in this particular session of the Legislative Assembly. There are rumours circulating about that we will only be here till the middle of June, and that's therefore only another 15 to 20 nights to speak to the important legislation of our day. This is a piece of legislation for which there is going to be in the future judicial interpretation. There is going to be court litigation. The *Hansard* debates may well be scrutinized carefully by legal scholars to try and scrutinize the frame of mind of this Assembly when it gave second reading to this particular Bill.

I would strongly urge all members to vote positively to this amendment. Once again, there is no downside to voting positively, Mr. Chairman. It improves a Bill that the public wants. It assists in giving the public some details about the . . . [interjection] Well, the hon. minister of environment says that nobody is listening to me anyway. How could he know I had stopped talking, then, if he wasn't listening? Very rude of him to say that. In fact, I have it on good authority that the hon. Member for Calgary-Buffalo was indeed listening. The hon. Member for Sherwood Park was indeed listening. I believe strongly that the Chairman was listening. If the hon. minister of environment doesn't want to listen, maybe that explains numerous aspects about the minister of environment.

Now, I want to move on. I'm moving on.

MRS. BURGNER: Why don't you just move?

MR. GERMAIN: Now the hon. Member for Calgary-Currie wants me just to move. Well, I know that she'd like me to come to Calgary and take on one of those Calgary ridings down there.

THE CHAIRMAN: On the amendment, please.

MR. GERMAIN: On the amendment. Well, all right. I'm on the amendment, Mr. Chairman. I'm right on the amendment right

now. They're provoking me, though. I'm going to be on the amendment.

This is an important amendment, Mr. Chairman. This is an amendment that we shouldn't have to provoke one another to get agreement on. This is an amendment that we shouldn't have to travel the province promoting. This is an amendment that everybody should sense intuitively is a good, value-added improvement to this particular Bill.

So that I don't cut into the limited speaking time tonight that other members want to utilize, I'll take my place. I know that there are other members of this Assembly that now want to speak on both sides of the House, and perhaps the hon. minister of environment will say a kind word or two about this very important amendment as well.

Thank you.

THE CHAIRMAN: The hon. Member for Sherwood Park.

MR. COLLINGWOOD: Thank you, Mr. Chairman. I'm delighted to participate in debate on amendment A3, moved by my esteemed colleague for Calgary-Buffalo. I am persuaded by the comments made by Calgary-Buffalo and by Fort McMurray that the better approach – the better approach – for this particular Bill would be to allow for the automatic revocation of the personal directive in the case of a divorce or if a marriage arrangement is declared to be a nullity or found to be void. In listening to my colleague from Fort McMurray, I think what he did was hit on what is essentially human nature in that we are not the kinds of animals that will sit down and plan for all of those unfortunate circumstances that will or may ultimately befall us in the future. In comparing this kind of arrangement to a prenuptial agreement, that's exactly what we have here, where there is contemplation of an arrangement as between a husband and wife and what then happens in the future if that particular arrangement is terminated or dissolved. We simply don't do that. I mean, we simply don't do that, and it becomes that much more important, because we're talking about a personal directive, and we're talking about the care that is going to be given to one another in circumstances where there is an incapacity of one of those individuals. We're talking about a time in life which is very sensitive, which requires the utmost trust, a fiduciary trust relationship. When you have a circumstance where a marriage is terminated or dissolved, there's a big question mark around the fact of whether or not that fiduciary duty is going to be maintained as between that man and that woman.

9:30

In fact, you could even take it one step further, Mr. Chairman, and that is that by leaving it to individuals to make those necessary arrangements either in a prenuptial arrangement or having to deal with it as part of the divorce settlement – if you fail to do that at the termination of that marital arrangement, you can in fact be creating a rather dangerous circumstance for the individual who becomes incapacitated. We have sections in the Bill that require the service provider to contact the agent to make decisions about that personal care. If you have an agent who is resistant, if you have an agent who simply doesn't care, if you have an agent who says, "Well, I'm out of the loop," you've got a problem. You've got a serious problem, because we're talking about the care of an individual who no longer has the capacity to care for himself.

The Member for Three Hills-Airdrie says: well, we don't have to intervene in individuals' lives; they can make those arrangements for themselves, and they can deal with it at whatever point

in time they want to deal with it as they write their personal directive. Well, if for example, Mr. Chairman, this kind of arrangement is then left to some resolution at the time of a divorce proceeding, at the time of a divorce settlement in the minutes of settlement, where there's a revocation of the personal directive – well, you know, members opposite continually say: "Ah, lawyers are too involved. We keep getting the lawyers involved, and they keep wanting to bill us for more things all the time." Well, they just handed this one to the lawyer. I mean, they just handed this one to the lawyer, because it will now have to be dealt with as part of the divorce settlement in the minutes of settlement. So it's more work for the lawyer and more cost for the individual involved.

[Mr. Herard in the Chair]

If we simply offered the protection to all Albertans who want to enter into a personal directive, we simply say that there is automatic revocation unless otherwise expressly provided for. Well, that still leaves the ability and the opportunity for individuals to make the arrangements themselves if they so choose. If they don't choose, then the trigger is there so that we can in fact recognize as a matter of law that the personal directive is revoked on the termination of a marriage for whatever cause, whether annulled, whether void, or whether by decree. So why is it, then, to the Member for Three Hills-Airdrie, that we are by virtue of her argument creating more work for the lawyers?

Let's put it in the legislation. Let's offer the protection. Let's make the revocation automatic unless individuals choose on their own initiative to deal with it expressly in their personal directive and to put that statement in there that it will continue after a divorce. Frankly, I mean, if we go back to the argument about human nature, I can't see why any individual in a personal directive is going to say, "Well, after a termination of the marriage, you can still be my agent." Who knows in the future, whether it's one year or 10 years or 50 years down the road, what the circumstances are going to be that result in the termination of the marriage? I mean, you're going to write, "That's okay, dear; you can still be my agent" on a personal directive?

DR. WEST: The plug would be pulled pretty fast.

MR. COLLINGWOOD: That's right. The minister of transportation's got it right. He's got it right. He understands human nature. That's probably from his background, but he understands, Mr. Chairman. I appreciate the support from the Minister of Transportation and Utilities in recognizing that the approach that the Member for Three Hills-Airdrie is taking is the wrong approach on this one. The amendment that's proposed by Calgary-Buffalo is absolutely and positively the right way to go on this kind of issue, and I think that it should be included in Bill 35.

With those comments, I'm going to ask all members to support amendment A3 and allow this amendment to go through and allow individuals to make the decision if they want to, that if they do not put that express provision in the personal directive, then as a matter of law the personal directive is revoked on divorce.

Thank you, Mr. Chairman.

MRS. ABDURAHMAN: Mr. Chairman, I also rise to speak in favour of this amendment. I can't believe that the Bill was done with the intent that has evolved out of the way it's been written. The minister of transportation certainly picked up very quickly

that indeed when you're going through a divorce and you're in an adversarial situation, certainly you would not want one of the parties to have the ability to make that life decision with this piece of legislation. In fact, it's mind blowing to think that indeed a former spouse, because of the way this legislation is written, could make that decision and, as the minister of transportation said, pull the plug.

In essence, what can happen, when you look at this piece of legislation, the Personal Directives Act, is that indeed after a divorce has gone through and if you were in a car accident or you had a cerebral hemorrhage or some unfortunate thing happen to you where you had lost your faculties and you were totally incapacitated, the medical profession may put it to you, "Was there a personal directive signed by this former loved one?" and it's found that there was and that the individual who had been the former spouse still had legal jurisdiction over making that decision – I can't believe that we're debating that we need this amendment. Surely common sense would tell you that you would not want to put anyone in that position.

Now, it may well be that the former spouse still is loving and caring for that individual, but for all you know, they may make the wrong decision. This has happened, Mr. Chairman, where in actual fact the positive pressure machine that was keeping an individual alive has been unplugged but the person continues to live and indeed regains consciousness and becomes a fully participating person. Can you imagine, if that former husband or wife discovered that when they were unconscious, the former wife or husband had given the directive to pull the plug? What if they hadn't come back? Can you imagine how that person would feel about that former spouse making that decision on their behalf because it hadn't been thought through at this time when we're putting forward Bill 35? I can't believe that the mover intended for this to happen.

9:40

I can remember, Mr. Chairman, in my nursing days, which were many years ago, the polio outbreak that took place in Scotland, in the Outer Hebrides. We had many young men who suffered from polio. Also, there was a woman who took bulbar polio, and to all intents and purposes she couldn't breathe for herself and she couldn't move any part of her body. She was on a positive pressure machine. I learned a lesson during that process of specializing her as a nurse. We all thought she was unconscious and couldn't hear anything, that she didn't know what was going on in her natural surroundings. Do you know that when she regained consciousness, she could relate conversations that had taken place around her? Although she gave you the impression that she was in a coma, that coma still allowed her the capacity to hear what was going on around her. She heard the discussion about whether we should indeed bring this positive pressure machine in from Sweden, because she was in an iron lung and they had developed this new piece of equipment that you did the tracheotomy and just put the machine into her and her body wasn't encased. She could tell you what went on in her life until she regained consciousness.

Now, I don't think, quite frankly, Mr. Chairman, even though I've been married 39 years to the same man, if I decided next year to go through a divorce, that a year after the divorce I would want that same individual making the decision whether I should be unplugged from that machine. I can't believe anybody in this Assembly would want that to happen. You know, you only need to look at the high-profile cases – and we've just seen one before the courts recently in Calgary – where relationships can become

so stressful that in fact we often are not responsible for our own actions.

We can go through such difficult times when marriages are breaking down that the animosity doesn't just go away once that piece of paper is signed. It can be there a year, two years after the divorce. Yet we're saying here that that individual would still have the right under this Personal Directives Act to make that final decision.

So I'd ask all members of this Assembly: let's do the responsible thing and support this amendment being brought forward. You know, there's a tendency when we get into this environment late at night to make light of these things, but quite frankly this is not an issue that can be made light of. It's a very serious issue. Many, many Albertans have been waiting for this Bill to come before this House because I think that we all want to have some control of a situation where you feel that your life has actually been lived and you should have some legal rights over those decision-making processes.

You know, Mr. Chairman, I can think of one that I found a little bit disturbing. I've used the reference to my 12-year-old granddaughter, who two years ago was diagnosed with a rare autoimmune disease that there's no cure for. The medical profession was great. They brought the team together, and the family was asked to ask any questions. The reason I'm raising this is because it has a lot to do with personal directives inasmuch as: would this child have any say in whether she wanted to go through all the horrendous treatments that can happen? And they were horrendous. They quickly told us that if the child made a decision that she didn't want to and the parents went along with that, they would go for guardianship under the courts. It just shows you the great dilemma that we face in society when we come into the high-tech areas and the intrusive forms of medical treatment that can happen.

So the Personal Directives Act is long overdue. Some people don't want all the latest technologies and the intrusive procedures into their health. Some people find death is a very acceptable thing. It's the one thing we all know, that after we're born, we're all going to die. Indeed, when we're looking at giving this trust to someone, you've got to make absolutely sure that you've got absolute faith in the individual who has that legal right to make that decision for you. The way this Bill has been drafted, unfortunately I would say that it puts some people in a very difficult position. Whether it's the person who is in the position that they are not able to make the decision for himself or herself and the other spouse is no longer the legal spouse - if they've gone through a divorce, whether it's two months, six months, or two years, I don't think that person should have that right anymore unless there's been agreement during the divorce process.

Why give all the extra financial benefit to lawyers in this instance? You know, Mr. Chairman, I get really irritated by the legislation that I see being brought forward in this House when indeed it's been created to give lawyers more work. That's the bottom line, and when you start seeing work being created for lawyers, that tells me it's poor legislation. It has not been written in plain language; it has not been written in a way that you or I could feel confident that we can act on our own behalf. No. It's going to make work for Calgary-Shaw, for Calgary-*Buffalo*, for Sherwood Park, for Fort McMurray if they're not sitting in this Assembly. While I respect all these fine gentlemen, quite frankly I don't want to see legislation created that doesn't serve people in representing themselves in a meaningful way, particularly under Bill 35.

Thank you, Mr. Chairman.

THE ACTING CHAIRMAN: The question has been called on amendment A3, which is item 2 on the notice of amendment as moved by the hon. Member for Calgary-*Buffalo*.

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.

[Several members rose calling for a division. The division bell was rung at 9:47 p.m.]

[Ten minutes having elapsed, the Assembly divided]

For the motion:

Abdurahman	Dickson	Sekulic
Carlson	Germain	Van Binsbergen
Collingwood	Percy	

Against the motion:

Amery	Forsyth	Lund
Brassard	Fritz	Magnus
Burgener	Gordon	McFarland
Calahasen	Haley	Oberg
Cardinal	Havelock	Paszowski
Coutts	Hlady	Pham
Day	Jacques	Renner
Dinning	Jonson	Severtson
Dunford	Kowalski	Stelmach
Evans	Laing	West
Fischer	Langevin	Woloshyn

Totals:	For - 8	Against - 33
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[Motion on amendment A3 lost]

**10:00**

THE ACTING CHAIRMAN: The hon. Member for Calgary-*Buffalo* on amendment A4.

MR. DICKSON: Yes. Thank you very much, Mr. Chairman. Speaking briefly to amendment A4, if one looks at page 14 of the Bill, section 29(2) is interesting. It says:

An agent or a person referred to in section 9(2) may use the information and records described in subsection (1) only to carry out the authority of the agent or to determine the maker's capacity, as the case may be.

There's no penalty that goes along if that's been breached. There's no sanction. So what you have is simply this kind of injunction which sits here, impotent and lonely, on page 14 of Bill 35, not accomplishing absolutely anything.

All the amendment does is impose a sanction to say that if in fact we don't want information to be used for an improper purpose, if we don't want any of the records that might be disclosed pursuant to section 29(1) to be used in an improper way, in an exploitive way by the agent, why wouldn't we attach a sanction or a penalty to it? One will see in section 30 that we have some penalties: "a fine of not more than \$10 000" if somebody "destroys, conceals or alters the personal directive." That's a serious business, and it's a serious fine.

Why is it that when we deal with section 29(2), there's no penalty that goes with it? I think members in the Assembly will recognize from their own experience that you just don't tell somebody in a statute: don't do this. If you really want to enjoin somebody from doing something you think is improper, you attach a penalty to it. I would think that the members of the Conservative caucus that always seem to have a kind of acute focus on penalties would be quick to notice the omission in section 29(2).

So all this amendment does is specifically provide that any person who uses the information or records described in section 29(1) for a purpose other than carrying out the authority of the agent or to determine the maker's capacity is guilty of an offence and liable to a fine of not more than \$10,000.

We've used exactly the same wording as the Member for Three Hills-Airdrie has used in Bill 35. The only thing we've done is we've attached a penalty to it.

Now, what on earth would be the rationale or the reason for refusing a penalty? There are only a couple of snares that come to mind. One would be that the Member for Three Hills-Airdrie isn't serious when she tells somebody not to misuse the authority or the records in section 29(2). I don't think that's what she intended. I don't think that's what the working committee from the departments of Health and social services intended when they came up with section 29(2). All we're trying to do is give some teeth and some clout and a sanction and attaching that or marrying that to section 29(2).

I don't intend to belabour the thing other than to say I think that, very much like the last amendment, these are useful, constructive amendments. I think that, as the Member for Clover Bar-Fort Saskatchewan said, this is what we're here for. The hour may be late and the patience of government members may be wearing thin, but I'd be so presumptuous as to remind them that we see time after time where constructive amendments are put forward and the government votes them down. Then the next session or a year, a year and a half later the government brings back exactly the same provision tucked into a miscellaneous statute, tucked into some kind of a remedial statute.

Well, we've got a chance to head it off and put the penalty provision in here. Now, if there's some good reason why this shouldn't be in here, I'd ask the Member for Three Hills-Airdrie, as soon as she's finished her consultation with the Government House Leader, to tell us what it is. [interjection] The government Whip is getting a little grumpy, Mr. Chairman. Maybe he's got some good reason to oppose the amendment, and if so, I hope he shares that with us. It's easy to mutter from his seat, but he's got some constituents who are interested in him trying to take some deficiencies in the law and trying to patch it up too. I hope he takes advantage of the chance to do that.

Mr. Chairman, those are the comments I wanted to make. I may have some other thoughts after we've heard from the Member for Three Hills-Airdrie, the sponsor of the Bill. I'd hope she'd receive this amendment in a positive way and accept it. It's completely complementary to section 29(2) and I think simply advantages it.

Thanks very much, Mr. Chairman.

MR. GERMAIN: I was giving some thought to not speaking to this amendment, but with the enthusiasm, the encouragement of the Minister of Labour, the thought was quickly erased.

AN HON. MEMBER: He said that you were lying.

MR. GERMAIN: Yeah. I know he did. I know he called me a liar as he makes his way out of the Assembly. He'll have to come and apologize for that, I'm sure, at some other time.

Now, Mr. Chairman, I want to talk to this amendment A4, as I have it on my numbering, which creates a fine and creates an offence for the violation of release of the information that is set out in section 29 of the Act. The amount of the fine, the maximum of \$10,000, is exactly the same amount as the fine is for other breaches of this Act. The mischief that the hon. Member for Calgary-Buffalo has identified is a very good concern. This is a situation where it is accepted and recognized that the information contained in a personal directive should be kept confidential except to the extent necessary to bring about the result of the personal directive.

I can't understand why the government draftsman, the Minister of Labour, was advising the House earlier that before Bills come here, they're scrutinized and reviewed and field-tested, as it were, in some fashion. I can't understand why this particular section does not have a corresponding prohibition or penalty in it. What the hon. Member for Calgary-Buffalo wants to do is indicate that a person who has acquired information or records, as contemplated in section 29 of the Act, and uses those for a purpose other than carrying out his authority "is guilty of an offence and liable to a fine of not more than \$10,000."

You know, we are rapidly losing control of the release of private information about ourselves and about our loved ones. Let's go back and talk about the social insurance number launched by the federal government in 1966. It was in fact a Conservative opposition member then, I believe John Diefenbaker, who said that this number use would get away on us and that it would expand way beyond its intended course of action. Now you can't get a credit card application or any kind of financial document without the individuals wanting you to disclose your social insurance number. When you write on the form that requesting that information is against the law, you never hear from that company again.

It is very important that we all buckle down and bear down on the protection of our personal information and our private information. This particular amendment emphasizes the importance of that private information. It emphasizes the importance of keeping it confidential, and it penalizes to the same value as the other penalties in this particular Act for breach of those rules.

So I would urge all Members of this Legislative Assembly to speak in favour of this amendment. First of all, speak in favour of it and look to your right and to your left here in the Assembly, and if somebody sitting beside you is doubtful of how they're going to vote, encourage them to vote for this particular section. If the hon. Member for Three Hills-Airdrie has a bona fide explanation as to why this was overlooked, I wish she would stand up and give it to us so that we could be persuaded to withdraw some of the anxiety in our submissions here this evening. In her absence we can only assume that this was an area that was missed, and we urge all Members of the Legislative Assembly to correct this now at the committee stage, where they should correct it.

Now, others learned in the law and others in this Assembly will talk about the penalty and the size of the penalty, and I will allow them now the opportunity to stand and deal with those issues. I conclude by urging all members to vote in favour of this particular amendment.

**10:10**

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

MR. COLLINGWOOD: Thank you, Mr. Chairman. Well, the amendment that's been put forward by Calgary-Buffalo as A4 is to my way of thinking fully complementary with what is currently in the Bill in section 29(2). As the Member for Calgary-Buffalo indicated, what you've got is a prohibition against the agent or the person who is defined in section 9(2) of the Act – and that's the person who's charged with the determination and the responsibility to assess whether or not the individual who's made the personal directive has capacity – that they can only use that information for the purposes of the authority they have. But then it goes no further.

Mr. Chairman, in any law you make a decree that you can't break a law, but then you go no further than that so that there is no offence and there is no penalty for the fact that you did breach the law. Well, all right; so an individual who's an agent or the person described in section 9(2) says, "Well, I can't use the information for any other purpose, but there's no consequence if I choose to do that." Anybody who's looking at the section is going to say: "Well, all right; you're not supposed to do it, but there is absolutely no consequence to doing it. I can't counsel you to do it. All I can tell you is that there is no sanction if you breach that particular section of the Act."

So in correcting and improving on the Bill we've got in front of us, we offer amendment A4, that says: make section 29(2) legitimate by adding in an offence clause, just like every other piece of legislation that we've got in this Assembly, Mr. Chairman. Whether we're talking about the Highway Traffic Act or whether we're talking about the Environmental Protection and Enhancement Act, if there's a provision in there that says, "Thou shalt not do this," there is also a complementary provision in that Act that says, "If you do, it is an offence." There is nothing in the Bill that says: if you do, it is an offence. Well, then, what's the purpose of having it in the Bill? What's the point of having section 29(2)? What's the point of sending a message to those individuals that they are indeed in a fiduciary relationship but that there's no consequence if they breach that trust of that fiduciary relationship? It makes absolutely no sense, Mr. Chairman, for the sponsor of the Bill, the Member for Three Hills-Airdrie, to come forward with the Bill that contains sections 29 and 29(2) and not go the extra step to say: that constitutes an offence if you breach that.

There are lots of circumstances in which that agent or that individual who was assessing the capacity of the maker of the personal directive can abuse the fiduciary responsibilities they've been given by virtue of that personal directive. The maker of this personal directive is basically saying to these individuals, "My life is in your hands." There has to be some understanding that that person in section 9(2) is going to make the assessment as to whether or not you still have capacity to make decisions on your own. You can't think of a fiduciary relationship that is more sensitive and more important than the kind of relationship between an individual and a professional who is going to make that assessment, so there has to be something that says you must act responsibly. The statement of what acting responsibly is is not in 9(2), which is a motherhood statement, but in the proposed amendment that says that if you do that, it is an offence. It's the same for the agent who has been named in the maker's personal directive. You designate that individual who's going to be your agent. You essentially say to that individual: "I put my life in your hands. You're there to take care of me because ultimately I'm going to be incapacitated, and that's when your authority

kicks in." You can't leave that person hanging by saying, "Well, I can't breach this fiduciary duty, but there's really no consequence if I do." We need to have the amendment in that says it is an offence.

As I say, Mr. Chairman, it is entirely complementary to and it finishes the thought that is in section 29 and in particular in section 29(2). In putting forward the best piece of legislation that we can in the Personal Directives Act, which the Member for Three Hills-Airdrie knows we and my colleagues on this side of the House support, why would we move this Bill through the committee stage without making it a better Bill in each of the amendments that are being proposed? This is another approach by my colleague from Calgary-Buffalo to improve upon a Bill that at this point is lacking because it does not contain a statement that it is an offence like every other piece of legislation that we have in this Legislature, in every Act, in every law that is currently in existence.

Mr. Chairman, with those comments, again I can't understand why the sponsor, why the government would not want to add this in. There may be some debate about whether or not the defined amount of the penalty is excessive or lacks – whatever members might think about the number, I'm quite happy to encourage and enter into that debate as well, as to whether or not a \$10,000 fine as a maximum is sufficient or insufficient or inappropriate or whatever, but it certainly sends a message to those who are in a position of responsibility and in a position of trust. It certainly sends a message that what the legislators wanted in this Bill – the legislators didn't just go to sleep on this Bill. They paid attention to this Bill, and what they're intending by this amendment is that we're going to treat this kind of breach very, very seriously. You have access to that information. You are given that information as a matter of trust, and by virtue of this amendment you will not abuse that trust or you will face a very severe penalty by doing that.

I hope again the Member for Three Hills-Airdrie will respond to this and explain to us why this does not complement section 29(2), why it doesn't complete the thought in section 29, and why if the member is going to take the position – and I'm a bit presumptuous in that she is not going to support the amendment. But we would like to hear from the sponsor of the Bill as to whether she will support the amendment and, if not, the reasons why the amendment can't be supported to send the message to those who are in a position of trust that that trust is highly regarded and cannot be abused.

Thank you.

#### **Chairman's Ruling Parliamentary Language**

THE ACTING CHAIRMAN: Before recognizing the hon. Member for Edmonton-Whitemud, I wish to raise a point of order with respect to the unparliamentary language, the expressions that the Government House Leader used on his way out of the House. This is my first opportunity to raise it, so I wonder if the Government House Leader could take his seat and respond to the point of order.

While leaving the Chamber while the hon. Member for Fort McMurray was speaking, there was some unparliamentary language on behalf of the Government House Leader. Now, normally this would not be part of the record, but the hon. Member for Fort McMurray did repeat into the record what was said, and I would now like to give the opportunity to the Government House Leader to retract those comments.

10:20

MR. DAY: Mr. Chairman, if I could be advised of what those comments were, I'd be pleased to give that consideration.

THE ACTING CHAIRMAN: Yes. You called him a liar on several occasions on your way out.

MR. DAY: Mr. Chairman, you know that I'd be the first to retract, and in all honesty and sincerity I've said a number of things about comments made by the Member for Fort McMurray tonight. Among them was that I would always rise and contest a lie when I heard it. I don't actually remember saying: you are a liar. I've said on a few occasions tonight that lying would always be addressed in this House. However, I'd say with all sincerity that if the member opposite perceives or thinks that I said to him "Liar," I'm saying as I stand before here, and I have apologized . . . [interjection] I wish you would be quiet, because I'm the one being called to order. You go sit in your seat if you want to talk.

I'll go on, Mr. Chairman. In this House it's recorded on a number of occasions that I have retracted comments that have not been appropriate. I do not hesitate to do that. I don't want to be quick to do it if indeed I haven't said it. I cannot honestly recall calling the member a liar. I did say that I felt he was a buffoon. I did say that I felt he and the Member for Calgary-Buffalo bully and whip the other members of the caucus into submission. I did say that they rise to speak on every occasion. I did say that I think they waste the time of this House. I've stood – and it's recorded in *Hansard* – on two occasions when they said that this is the only jurisdiction in the entire cosmos that doesn't review regulations, and I also contested that. It was at that point that I said I will always rise to contest lies when they are spoken in the House.

Now, as I stand before you, I do not recall saying: you are a liar. But if that is his perception, there was never any intent that I would say to him: you are a liar. Anything I have done or said to suggest that, I absolutely retract. I do not recall saying and I'm not saying now that he is a liar.

#### Debate Continued

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

DR. PERCY: Thank you, Mr. Chairman. I support this Bill and I've always supported the principle of the Bill, certainly through second reading. The amendment in question, though, I actually think is a very reasonable amendment in that it does in fact invoke and impose a penalty under section 29(2) if there is a breach. Given the importance of these types of personal directives, I think this is not an unreasonable amendment. I think it's certainly consistent with the spirit of the Bill. Although members on the other side of the House may view some amendments brought forward as vexatious, this is not such an amendment. It is very clear. It is precise. It is in the spirit of the Act, and as my colleague from Sherwood Park said, in fact it basically completes the thought that is set out in 29(2).

I would ask that the hon. Member for Three Hills-Airdrie actually consider this amendment because it is completely consistent with the spirit of the Bill.

MR. DICKSON: Mr. Chairman, we've had at least seven people

speak to this amendment. Wouldn't it be a whole lot easier and much more economical on time if the mover of the Bill would stand up and indicate what the reason is for opposing the amendment?

You know, there are some people who mistakenly talk about what we do in here as debate. I've always understood debate to be that there's an exchange of views. What we have is a whole series of soliloquies, with members of the opposition standing up and asking questions, raising concerns, and in this case moving amendments. What we're greeted with is the absolute deafening silence from the other side. Every now and again we have a government member who will make an observation from their seat.

The member gave an explanation to one of the earlier amendments. Why is it that the Member for Three Hills-Airdrie won't stand and assist the Legislative Assembly this evening by giving us the reasons why she's opposed to this, if indeed she's opposed to it? You see, the alternative is that we will have colleague after colleague standing up and asking the same question because that's part of our responsibility. It seems to me to be not the most effective way for tax dollars to be spent, for MLAs' time to be spent. So I would think that if the Member for Three Hills-Airdrie in fact subscribes to the view that this is a place where we exchange views and attempt to put together the very best legislation we can, she would stand in her place and respond to the specific concern.

Failing that, what remedies does the Official Opposition have? What remedies, Mr. Chairman, do we have to try and determine what the government position on this is? We can call on the Member for Calgary-Shaw to call out of his repertoire of attention-grabbing devices something that may catch the members' attention. We can go on and on, but all we really want is an explanation from the Member for Three Hills-Airdrie, and if we don't get the explanation, even the Government House Leader – even the Government House Leader – must acknowledge that we have few options other than to keep on putting the question. We're happy to keep on doing that, because we think we must get to the bottom of this issue.

The argument I think has been made repeatedly by many of my colleagues that the amendment is a good companion, an appropriate companion to what exists in the statute, and I think it warrants a full explanation from the mover of the Bill. So I'd like to invite her yet again to stand in her place and offer an explanation. Failing that, Mr. Chairman, I give you notice that the opposition has little alternative but to continue to keep on attempting to persuade her and persuade members of her caucus that this is a positive amendment, a constructive amendment, and something that will advantage Albertans.

So I'll take my seat to give the mover from Three Hills-Airdrie that opportunity.

MS HALEY: When I received your amendments late Thursday afternoon, I left them for the Department of Health to review, because this is a Department of Health Bill. I'm merely sponsoring it. The Department of Health came back and suggested that we not accept it. That is their recommendation to me. I guess what I want to say to the hon. Member for Calgary-Buffalo is that had you in all honesty been very serious about these amendments, I'm fairly confident that one of you would have phoned me. We could have had an opportunity to talk about it, but that didn't happen. I'm going to suggest to you that I'm not prepared to accept this amendment.



MR. DICKSON: Mr. Chairman, firstly I want to thank the Member for Three Hills-Airdrie for getting up and helping to clear up some of the uncertainty and some of the confusion. I regret, though, that her response invites a whole other level of concern. What I understand this member to say is that it's the Department of Health that's crafting legislation, that's running the strategy on Bills in the Legislature, and we've got members coming into the Assembly who don't know what kind of a piece of legislation they're standing up and ostensibly defending.

Mr. Chairman, what we've got is I think an abdication of responsibility. If we've got a member coming forward and purporting to sponsor a Bill, then one would think that what goes with that is the concomitant responsibility, the corresponding responsibility, to understand it and be prepared to defend the position of the government, defend the Bill in here. We're the people accountable to the taxpayers of Alberta. It's not some mandarin in the Department of Health or some committee in the Department of Health.

**10:30**

Mr. Chairman, this is very troubling. The explanation given by the member can be summed up to be two reasons. The first one is she feels that because somebody didn't phone her to discuss the amendment, she's not prepared to support it.

The second thing is that the Department of Health has given her instructions to say no – not the Minister of Health, who is elected and at least nominally accountable to Albertans, but somebody in the Department of Health. Is it the deputy minister? We've got a deputy minister who wants to be a Minister of Health anyway. It maybe wouldn't be surprising that the deputy is giving this kind of direction. I don't know whether it's an assistant deputy minister, but that's not acceptable.

I think one now has to ask: how many other elements of the Bill aren't understood by the sponsor of the Bill? How many other elements of Bill 35 are here simply because the department wants them to be here? Who do we have to respond to questions? I think that we've proposed in the past opportunities for representatives of the Department of Health to come forward and answer questions. Maybe this recent exchange indicates why that's important. We don't have a minister here to answer to it. The sponsor of the Bill doesn't understand why it's in the Bill. I think that this has to be of concern to every member and certainly to every Alberta taxpayer.

Mr. Chairman, just on the point in terms of why the member didn't get a phone call. It seems to me that we're dealing right now with probably about 35 statutes that are going through the process. We have typically less than half a day's notice in terms of what Bills are going to be dealt with on any given afternoon. We don't have the resources in the opposition of the Department of Health. We don't have the Department of Health baby-sitting us and telling us what to say and what not to say, what to ask and what not to ask. We don't have those resources. We do the best we can.

I would think that this member might do as you have on occasion, Mr. Chairman, where you've called an opposition MLA or put them in touch with your researcher to discuss amendments. In fact, some good has come of that. For this member simply to say that she was sitting by her phone, that nobody phoned her, and therefore she's opposing an amendment is not acceptable. It's not reasonable, and it's not defensible.

I think that we talked earlier with respect to another amendment that would deal with a legislative oversight, a parliamentary oversight of law and regulations. Now we're dealing with a much

more serious problem. We've got a piece of legislation here that can't be defended by the sponsor, a piece of legislation that's here because the Department of Health wants it here. Well, that's a pretty scary prospect. So much for a rubber-stamping exercise. I didn't come to the Legislative Assembly to function as a rubber stamp on the amendment. I don't think you, Mr. Chairman, came here to rubber-stamp the wishes of the Department of Health or any other department of the government of Alberta. So I expect that the provocative and, frankly, frightening response from the Member for Three Hills-Airdrie may give some of my colleagues some concern and perhaps motivation to register their concern as well.

I see the Government House Leader stirring and showing some animation, Mr. Chairman, so once again we may have the Government House Leader engage in the debate. I hope that if he does, he's prepared to focus on the issue that's now surfaced with this amendment in terms of who's calling the shots. Is it the Legislative Assembly of Alberta or mandarins in the Department of Health? I certainly hope that members on both sides of the House will make some attempt to reassert the supremacy of the Legislature, because it was never more warranted and more required than it is this evening, sir.

Thank you.

MR. DAY: Mr. Speaker, if the Member for Calgary-Buffalo had one ounce or shred of concern about the supremacy of the Legislature, he would let this issue come to a vote. He and certain others on the other side feel it is their divine right, after thoroughly debating an issue, and sometimes intelligently debating it, to get the message out to the public by getting back to their offices and cranking up that old Gestetner machine they must have and firing out the press releases, holding all the press conferences up and down the stairs here, getting two or three people to write letters . . .

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

#### **Point of Order Relevance**

MR. SAPERS: Yes, Mr. Chairman, under the relevance section of *Beauchesne*. I believe it's 459. The hon. Government House Leader is supposed to be speaking on the amendment, not about Gestetner machines. I'd certainly appreciate his reasonable comments on the amendments as opposed to his unreasonable comments about Gestetner machines.

Thank you, Mr. Chairman.

THE ACTING CHAIRMAN: Well, hon. members, perhaps some of that's a bit my fault because I allowed Calgary-Buffalo to expound upon his displeasure with respect to the process of debating the Bill. I guess that's a little bit of response to that. So I'll take responsibility for that.

Government House Leader.

MR. DAY: I appreciate that, Mr. Chairman. It's a sign of a good chair when you can reflect on your own rulings or lack thereof. In this case indeed, the Member for Calgary-Buffalo wandered far and wide straight from the amendment and addressed his own frustrations or fright, I guess. He's frightened. I'll tell you, some of the things I've seen him table in this Legislature are enough to send chills up the spine of any freedom-loving person, and he talks about being frightened here.

**Debate Continued**

MR. DAY: So, Mr. Chairman, I would go on to say that he talked about – and I'm very specifically referring to his reflection on the amendment – the supremacy of this Legislature. Then after considerable debate, hours of debate – I think it will be close to four hours now on this one – and having gone through all the democratically available avenues to try and arrest the attention of the public, he has absolutely, completely, totally, dismally failed. The public is not fixed on this amendment as he's bringing it forward. Now he's crying about not being able to win the debate here. If indeed he believes in the supremacy of this Legislature, would he indicate to me by a nod of the head right now if he would be willing to have the question called on this amendment and let the Legislature reign supreme? Would you be willing to do that? No, he isn't. He sits there staring off into space, struggling for some kind of response, of which he has none.

Mr. Chairman, on that point and because we literally have to be concerned with the health of members here and not subject to the antics and the prideful, egotistical machinations that we see from these lawyers, I would now move that we adjourn debate on this amendment.

THE ACTING CHAIRMAN: The Government House Leader has moved that we adjourn debate on Bill 35. All those in favour of the motion, please say aye.

SOME HON. MEMBERS: Aye.

THE ACTING CHAIRMAN: Those opposed, please say no.

SOME HON. MEMBERS: No.

THE ACTING CHAIRMAN: Carried.

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

[Motion carried]

[Mr. Herard in the Chair]

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

**10:40**

MRS. FORSYTH: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration certain Bills. The committee reports the following: Bill 34 and Bill 35. 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: Does the committee concur with the report?

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? Carried.

MR. DAY: Mr. Speaker, before we adjourn. Moments ago I was called to a point of order by yourself in the Chair on the assumption that I had called a member a liar. Striving to make a small and narrow point that I didn't actually use the word "liar," I sat down after that. However, on consultation with yourself and with a number of my members to try and recollect exactly what I had said, I did use the terms "lie" and "lying." That indeed is inappropriate language. It's unparliamentary and should not be countenanced in this House, and with all sincerity I say to the member opposite that I ask his forgiveness, and I retract those comments.

THE ACTING SPEAKER: Thank you very much.

[At 10:42 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]