Legislative Assembly of Alberta

Title: Tuesday, May 14, 1996 8:00 p.m.
Date: 96/05/14
[The Deputy Speaker in the Chair]

THE DEPUTY SPEAKER: Please be seated.
May we briefly revert to Introduction of Guests?

HON. MEMBERS: Agreed.

head: **Introduction of Guests**

THE DEPUTY SPEAKER: The hon. Minister of Community Development.

MR. MAR: Mr. Speaker, thank you very much. It gives me a great deal of pleasure this evening to introduce to you and through you to members of this Assembly a number of friends of mine from the Progressive Conservative Association of Edmonton-Highlands-Beverly. I've had opportunity to work with these folks over the last three years. They are a very enthusiastic group of people dedicated to advancing the work of the Progressive Conservative Association. I'd like to introduce each of them and ask them to rise: Jim Campbell, Rene Campbell, Mary Lou Liens, Chuck McKenna, Joan Murchie, Donna Walton, Charles Rees, David Caseley, Gordon Babey, Noma Morrissey, John Campbell, Lorraine Campbell, Franklin Loede, and also Helen Stevenson. I ask that the Assembly give them the warm welcome of this Assembly.

head: **Government Bills and Orders**
head: Second Reading

Bill 42
Wildlife Amendment Act, 1996

[Debate adjourned May 14: Mr. Van Binsbergen speaking]

THE DEPUTY SPEAKER: The hon. Member for West Yellowhead.

MR. VAN BINSBERGEN: Thank you very much, Mr. Speaker. I'm not entirely sure where I left off. [interjections] Nevertheless, I gather from all the interruptions here that I'm to start all over again, so I will gratefully do so. Actually, I had said a few things. I remember it very well actually, and I even know where I left off, which is perhaps an exception today.

I'd like to refer to section 1(8), which states: "The Lieutenant Governor in Council may by regulation repeal subsection (7) and, with effect from a later date, this subsection." What strikes me, Mr. Speaker, is that yet again here's a major change in legislation which can simply be decided upon by the Lieutenant Governor in Council, or by cabinet, which generally means minister. I object to that. It seems to me that if we accept legislation in the House, then it can only be repealed in part or in whole by the Leg. Assembly. So that bothers me.

You realize that it is very difficult once again to deal with the principle of the Bill because the principle is to amend. Therefore, I have to deal with the parts, the parts that are being amended. So it makes for a bit of a piecemeal presentation, I'm afraid, but I'm sure the minister will forgive me. He may have heard these things for the first time; who knows?

Mr. Speaker, I'd like to turn to section 7, which deals with the fish and wildlife trust fund. Now, I know that mention has been made already of (D) under (a), which is that "the enforcement of legislation directed towards their protection and management" can sort of be financed out of this fund. I would suggest that is a major departure from the established practice, because thus far that kind of aspect of enforcement I think generally is financed by the departmental budget, but it somehow seems to fit in with the times in the sense that we know that churches and food banks are looking after our poor. We also know that hospitals are being financed by bingos, and there are fund-raising campaigns in schools to make sure that certain programs continue. I suppose in that sense we have embarked on a new way of financing things, primarily forced because of the deep cuts that have taken place by this government. So that is something that bothers me about this Bill.

MR. LUND: Point of order, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Minister of Environmental Protection is rising on a point of order.

Point of Order
Questioning a Member

MR. LUND: Mr. Speaker, I wonder if the hon. member would entertain a question.

THE DEPUTY SPEAKER: The hon. member need only say yes or no.

MR. VAN BINSBERGEN: Mr. Speaker, the answer is yes, wholeheartedly.

Debate Continued

MR. LUND: Mr. Speaker, I heard earlier today – and I hear it again now – talk about a change in the wildlife trust fund, saying that we're going to now all of a sudden be using it for enforcement and protection. Yet I read in the excerpt from the current Bill where it talks about "promoting the use and development of humane traps," the protection there, the compensation for damages. I'm wondering if the hon. member would go on and tell us how exactly he sees that we're really changing the use of the fund when in fact it's already covered in the old section, but it's just reworded a little differently.

MR. VAN BINSBERGEN: Mr. Speaker, I will gladly shed some light and explain to the minister how his Bill, this Bill, will change the established practice; namely, what the amendment states specifically is that the fund can be used for "the enforcement of legislation directed towards . . . protection and management," and that includes . . .

MR. LUND: Try 6(a) in the expired Bill.

MR. VAN BINSBERGEN: Mr. Speaker, I've given the minister a chance. He may not like my answer. I never like his answer when I ask him a question. You know, that's called tit for tat. I give him the tat, and what does he give me?

THE DEPUTY SPEAKER: West Yellowhead, please respond however you may wish. I'm busy watching the hon. minister of the environment to ensure that in fact he doesn't answer his own question.

AN HON. MEMBER: Oh, you're in trouble tonight.

THE DEPUTY SPEAKER: We all are, hon. minister.

West Yellowhead, do you have an answer or do you wish to go on?

MR. VAN BINSBERGEN: I've done my very level best.

THE DEPUTY SPEAKER: Oh, okay. Just as in question period there is no counter to it all, so we'd invite West Yellowhead to continue on in his talk.

MR. VAN BINSBERGEN: I can't very well explain the whole Bill, Mr. Speaker, but I would like to continue, then, with section 13. That is one that sort of sticks in my craw as well, because it means once again that the ability to sue has been taken away. Now, I know of course that there is not a major change between the old and the new here, but there is still the fact that somebody who feels hurt, impaired, wounded, or wrongfully treated by either

> the Crown or a wildlife officer or wildlife guardian for any act done, or any failure to act, by any of them in good faith
> (i) while exercising powers or performing duties . . . or
> (ii) for death, personal injury or property damage caused by an animal

has no recourse then, and I'm speaking of we Albertans because naturally I'm speaking on behalf of Albertans. We have no recourse if there has been a wrong perpetrated by an officer, perhaps not willfully but it has been perpetrated simply by sheer negligence, and that at times can be very, very much punishable. So I don't particularly care for that.

Then we go on, Mr. Speaker, to "the Minister may make regulations." That's part of section 14, and I just want to point out that subsection (e) there allows the minister essentially to privatize all kinds of operations having to do even remotely with wildlife. I know that has been possible under Bill 41, and I know that Bill 57 would have allowed them to even give away the kitchen sink, but here it is again. I just want to focus on this. It is important because we keep running into agencies of the Crown which cannot be held liable somehow and cannot be sued, and that bothers me.

Mr. Speaker, I have just a few more things here. I already asked about the change from 16 to 18, and the minister has mouthed along the way that that is simply to bring it in line with the criminal Act. I suppose if that's the only reason, then I will have to tell my constituents that.

There was something else here that bothered me.

8:10

MR. CHADI: The minors.

MR. VAN BINSBERGEN: No, I've spoken about the minors here.

Section 18 on page 10 gives virtually unlimited powers, I wrote down in a note here, to the minister, because it says in subsection (2) "The minister may," and it used to be "subject to any restrictions prescribed under subsection (1)", and that is being wiped out now. So it reads:

> The Minister may by regulation establish as open seasons periods during which wildlife of the kinds and characteristics and in the numbers prescribed may be lawfully hunted in the areas, under the licences and, where applicable, in the manner prescribed by him.

The first "by him" is bounced. The second "by him" stays.

Okay. Fair enough; but what it does is give the minister once again great powers. Now, I admit he already had assumed powers to extend the season almost at will and therefore making sure that any hunting would be done within season, either regular or special. Nevertheless, this kind of takes even away the "subject to any restrictions prescribed under subsection (1)." You know, I don't think any minister ought to have clout like that. Most of these are points that I just want to point out. I've said already that I will support this Bill.

I think I'm just about here at the end of my tether. Pages 28, 29, just a quick reference. That is the item that actually has already been pointed out by the Member for Fort McMurray, and that is that the punishment that a guide may receive who is guilty of an offence is going to be severe, financially that is, but if he decides not to pay it, then nothing will ever befall him. So that really doesn't make much sense. [interjection] Yeah, actually I've already spoken to that.

So, Mr. Speaker, I will sit down and let someone else take issue with the Bill. Thank you.

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

MR. BRUSEKER: Thank you, Mr. Speaker. Just a few comments on Bill 42, the Wildlife Amendment Act, 1996. Other members before me have spoken at length to a section that looks like it's one of those catch-22 sections, that being section 6, that the government has set up that it's going to win regardless of what happens there. The minister seems a little confused upon his own legislation with respect to the enforcement aspect under the fish and wildlife trust fund. The fish and wildlife trust fund, if we look at the old section, makes no mention of enforcement. There is a new section that does include the concept of enforcement under section 6 as proposed. When you look at 6(a)(i)(D), it talks about "the enforcement of legislation." That's a new clause that wasn't in there before, Mr. Speaker. Maybe the minister hasn't read that before, but I just thought I'd bring that to his attention because it is something new that is not in the current section. It is a new piece that has been added in for the purposes of this Bill. Now, I don't know if the minister is just seeing double and sees it in the old section, but it's not in the current section. There's a new part there.

MR. LUND: The word "enforcement" isn't, but "protection" is.

MR. BRUSEKER: Well, what I'm talking about is enforcement, Mr. Minister.

MR. LUND: What's the difference?

MR. BRUSEKER: There seems to me to be a considerable amount of difference.

Now, with respect to whether one talks about enforcement or talks about protection, as the minister knows, within my constituency for a short period of time there is still a fish and wildlife office that is going to be moved. I've talked to some of the officers that work out of that office, Mr. Speaker, and they are concerned that when the office is moved from its present location, enforcement and patrolling, for lack of a better term, of the southern part of the province, in particular down into the neighbourhood of the Pincher Creek-Crowsnest Pass area, is going to

be so far from the office where it is proposed to be located, in the town of Rocky Mountain House, that the distances that are going to be faced by officers are going to be so great that the time traveling to and from that area is actually going to be greater probably than the time they actually spend in the area patrolling and providing enforcement.

Mr. Speaker, those are comments that I've heard from the officers themselves, and contrary to the minister shaking his head over there, that is a concern that they have expressed to me. I express that concern here because I think it's important that the minister be aware of that concern, if he's not heard it elsewhere. I think that is a concern that the minister should be aware of and that he should give some consideration to future decisions that are being made with respect to offices and the opening and closing and moving of offices of wildlife officers. That office also includes, by the way, a forestry section as well, but that would not pertain directly to this section under the Wildlife Act.

Mr. Speaker, hunting and fishing are important to Alberta, to the economy. They are also important with respect to international tourism. Alberta has quite a reputation for bringing in hunters from in particular and most often the United States, but that's not the only place of course where hunters come from to come to Alberta to hunt. The section here, section 15, talks about who can get licences and permits, and of course that applies to the hunters.

There's also a section further on that addresses the issue of guides. Mr. Speaker, the guiding industry is perhaps a small slice of the total tourism pie in the province of Alberta, but it is nonetheless an important one upon which we build in part our international reputation. A number of years ago there were considerable concerns expressed by the guiding industry in terms of who was getting, first of all, the guiding permits in terms of dedicated zones, in terms of who could and who could not guide in a particular area. Wildlife management units is the term referred to. Also, the issue was then: who was being able to get the hunting permits? Was there a preference being given to non-Albertans, non-Canadians over local residents?

Mr. Speaker, the Act we have before us doesn't specify that one way or another. I am voicing that as a concern that has been voiced to me by guides in the past. I know that with respect to wildlife this is one of the areas where indeed there is probably some justification for the government relying in part upon regulation. Part of the reason for that, of course, is that the populations of animals will vary from year to year as does the interest from the hunting community.

Of course there are, again, sections that talk about that regulations may be created. I guess I want to again raise the concern that when you vary hunting conditions or requirements or licences or what have you by regulation, there is an onus upon government to make those changes known not only to themselves but also to the local community, i.e. Albertans, and also to the international community that could be coming from other parts of the globe or indeed other parts of our own nation.

8:20

Mr. Speaker, the Member for West Yellowhead has raised a number of questions. I'm just wondering about one that struck me as rather odd. I wonder if there could be an explanation of why we're changing in a number of locations the word "firearm" to the word "weapon." What significant achievement is that to change one word? That change appears in a number of locations.

Curiously, Mr. Speaker, I want to raise a question here, perhaps by way of it being a slightly different issue for the government. The government members at various times have spoken out very strongly against the federal Minister of Justice's concerns about gun control, yet here we see a unique approach to gun control itself. It seems we're going to allow young Albertans who are 16 years of age to drive in the province of Alberta, but they're not going to be allowed to go out and hunt in the province of Alberta. So you have this inconsistency in the legislation.

THE DEPUTY SPEAKER: The hon. Minister of Environmental Protection is rising on a point of order.

Point of Order
Questioning a Member

MR. LUND: I'm wondering if the hon. member would entertain a question.

MR. BRUSEKER: Certainly.

THE DEPUTY SPEAKER: The answer is yes, hon. minister.

Debate Continued

MR. LUND: Mr. Speaker, I wonder if the hon. member could tell us where in this it says that someone under the age of 18 cannot hunt. I'm also wondering if he would be interested in talking to his kissing cousins in Ottawa, if he really wants to change the ability to hunt by yourself, to have the Criminal Code changed so that in fact that could happen in Alberta without being charged under the Criminal Code.

THE DEPUTY SPEAKER: Hon. Member for Calgary-North West, you have two questions.

MR. BRUSEKER: Yeah. Two questions in one. Now, if that were question period, that would get ruled out of order, Mr. Speaker, but we're a little lenient here.

The section that I'm referring to, hon. minister, is section 33.

> A person who is under 18 years of age shall not hunt with a firearm or another prescribed weapon unless under the direct and immediate supervision of

and then it leads on to the other part. So they've changed the section from what it currently reads, from 16 years of age to 18 years of age.

Now, had the minister allowed me to finish my sentence – of course I wanted to accommodate his request to answer the question – then I would have read the rest of the section. I haven't had time to do that. It says: "(a) a parent or legal guardian of his," assuming under the Interpretation Act that "his" refers to both genders, "or (b) an adult who is authorized in writing by such a parent or legal guardian to accompany him." So there is a change in the age that is there.

Now, with respect to the federal Criminal Code, Mr. Speaker, I will make no representation that I'm going to have anything to do with my quote, kissing cousins, unquote, in Ottawa. I really don't know that I would be all that inclined to start kissing the hon. Minister of Justice, but if I saw the Member for Calgary-Currie throwing some smooches over my way, I must say that that would get a little more favourable response, from this particular member at any rate, than the suggestion made by the minister of environment. Sorry. So that's my response to those two questions.

Just a few questions that I did want to raise with the hon. member introducing the Bill. Again, there are some changes that

change a few words, and I suppose there's some reason for this. Another one talks about eliminating the word "exotic" and substituting the word "controlled" with respect to certain classes, if you will, or categories of wildlife. I'm wondering again what the intent or the purpose is with that one minor word change. I don't see it as a big issue.

Mr. Speaker, just in closing and with those few brief comments to the Bill, I think it's important that we preserve and maintain our wildlife, not only because it's a part of our heritage in the province of Alberta but because, as I've said before, it's important to those of us that hunt with a camera as well as those who may hunt with a weapon or a firearm, depending upon which Bill you're looking at, simply to enjoy the beauty that we have in the province of Alberta as well as to promote that international tourism and national and local tourism as well.

So I do support the Bill. I think it is important to support and protect our wildlife. I think that with perhaps a few small amendments at Committee of the Whole stage, this will be a really great Bill, but it needs a little work just at the moment.

Thank you.

THE DEPUTY SPEAKER: The hon. Member for Calgary-East to close debate on second reading.

MR. AMERY: Thank you, Mr. Speaker. I'd like to take this opportunity to thank the members who participated in this debate on Bill 42. I have been listening intently to their questions and to their concerns, and I will try to answer their questions and address their concerns in the committee stage.

With this, Mr. Speaker, I'd like to move second reading of Bill 42.

[Motion carried; Bill 42 read a second time]

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

[Mr. Tannas in the Chair]

THE CHAIRMAN: We're now in Committee of the Whole, and for the benefit of the people in the gallery this is the less formal part of the Legislative Assembly. Members are allowed to take refreshment other than water, like juice and coffee only, and remove their jackets. If you have a sheet and are trying to locate everyone, sometimes you'll see members from either side sitting in the Premier's chair or wherever, visiting with the minister or visiting with each other. The hon. members are allowed to debate at some length, and you might get a question back and forth between the sponsor of a Bill and people who are critiquing it and people who are responding to it.

Bill 24
Individual's Rights Protection Amendment Act, 1996

THE CHAIRMAN: The hon. Member for Stony Plain is on the list, followed by Calgary-Buffalo.

MR. WOLOSHYN: Thank you, Mr. Chairman. The debate on Bill 24 has been quite interesting to this point. Some issues were raised, and I think what the pages are currently passing out are the proposed government amendments listed A to L. I am proposing that we vote on these as one package. This would give the members the opportunity to debate each particular section as they see fit, but when it would come to calling the question, we'd be calling the question on all the amendments A through L.

At this time I'd like to give the members the opportunity to react to our proposed amendments.

THE CHAIRMAN: We'll pause a moment then. We'll pause a moment while we all get the copies. This will be called A1, if that's agreeable.

MR. WOLOSHYN: The whole thing, the whole package.

THE CHAIRMAN: That's right. That appears to be agreeable.

I think nearly everyone has now received a copy, Stony Plain, so if you wish to move the amendments and speak to them further.

MR. WOLOSHYN: I would just move the amendments, Mr. Chairman. I think they're quite self-explanatory, and I would see probably unanimous concurrence to these amendments.

MR. DICKSON: Mr. Chairman, just before dealing with the substance of the amendments, I'd offer this observation. If one looks at the chronology of this event, the Bill had been given first reading on March 27 of 1996. Members will recall that at that time the government said that this was the ideal Bill, and the hon. Premier went on about how responsive the government was being to what Albertans told them ought to be in a human rights law. This opposition disagreed. On April 2, 1996, we outlined 16 draft amendments to Bill 24. Now, we did it in that sense because we wanted to give the government time to react. We wanted to point out to them that Bill 24 fell far short of the unanimous recommendations of the Equal in Dignity and Rights report. We've asked questions. [interjection]

THE CHAIRMAN: Edmonton-Mayfield, right after Calgary-Buffalo or whatever you'll have your opportunity.

8:30

MR. DICKSON: Mr. Chairman, it's hard to restrain the enthusiasm of my colleagues who want to participate in the debate.

In any event, the point I was making is that we came forward and we tendered our amendments, and we wanted to make sure that the Minister of Community Development and all members would have a chance to review them and react. We asked a series of questions in question period related to the amendments.

Now, what happened last night. The Member for Three Hills-Airdrie, you may recall, Mr. Chairman, had expressed some concern on another Bill. Amendments had been provided to her on a Thursday, and here we were debating it a few days later.

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

Point of Order
Relevance

MR. DAY: A point of order citing our constantly cited reference on relevance. Mr. Chairman, this is going to be, according to the Liberals, a very long debate. As a matter of fact, they have told us that they're going to just keep talking and talking and talking and force us to bring closure on this. Well, that's fine, and that's what they've stated.

SOME HON. MEMBERS: Who said that?

MR. DAY: Oh, quite a number of them.

SOME HON. MEMBERS: Name him. Name them. Name them all.

THE CHAIRMAN: Order. The hon. Government House Leader is trying to make a point of order, and unfortunately there are enough people who wish to enter into this debate that the Chair is having difficulty hearing the hon. Government House Leader. So let us hear what his point of order is, and once we're finished with that, we can respond to that point of order, then we can rule on it, and we can move forward.

With that, we'd invite the hon. Government House Leader to make his point of order.

MR. DAY: Well, in fact, Mr. Chairman, over the chirps of "name him, name him, name him," earlier today when I rose on a point of order when somebody accused the government of not respecting the courts, the Chair quite properly ruled, though I didn't agree at the time, that as long as people weren't being individually named, there was no point of order. So I would encourage the Member for Edmonton-Mayfield to not just sometime take a little browse through Standing Orders for the first time in his life but to try reading the amendments before you before you go ballistic.

The point of order, Mr. Chairman . . .

MR. CHADI: A point of order.

MR. DAY: You can't do a point of order on a . . . [interjections]

THE CHAIRMAN: I think, Edmonton-Roper, in a sense you're demonstrating exactly what the Chair intervened on in order to stop. The hon. Government House Leader at the outset said "relevance," which is in *Beauchesne*, and that's the point of order. We're just trying to get him to talk about it.

MR. CHADI: Mr. Chairman, he's talking about Edmonton-Mayfield. He's not talking about relevance.

THE CHAIRMAN: Well, you have to wait till he's finished.

The hon. Government House Leader on relevance.

MR. DAY: I would encourage the Chair, Mr. Chairman – as we are going to be here, as has been indicated by the Liberals, for many, many hours, days, and weeks, possibly, if they have their way – that we must look specifically at the amendments, not at what some member talked about on another Bill last night. We're going to be here a long time. We could get a little bit frayed around the edges. I would just ask that we respect the rules, that we speak to the amendments. They are very specific. They are very clear. We are waiting with anticipation to hear members rise and speak against such items as multiculturalism. We're waiting to hear that. So, please, I would encourage the Chair, keep their remarks specific to the amendments.

THE CHAIRMAN: Calgary-Buffalo, on the issue of relevance.

MR. DICKSON: Well, Mr. Chairman, with respect, there were two themes that I took from the hon. House leader's comments. The first one had to do with some threat that the opposition members would keep talking until the government brought in closure. That was the one theme raised. Then the other one was that I wasn't speaking to the issues implicit and expressed in the package of amendments that have just been submitted.

Now, on the first theme I'd make this observation. I've never said in this House as the critic on this particular Bill, Mr. Chairman, that we intended to force the government into closure. What I've always said is that our job here is to ensure that Bill 24 reflects the unanimous recommendations of the Premier's all-party panel, and as long as it takes to point out to the members of the government the many and various ways they've fallen short of that measure, we will do so. It's entirely up to the government if they're going to invoke closure and when they're going to invoke closure, but I challenge the Government House Leader to find any time when in speaking to this Bill we're not speaking to the point and we're speaking to the issue.

In terms of the relevance I'd make this observation. There's a process question I wanted to raise with respect to the amendments, and then there's a whole lot of substantive comments. I would think that with the kind of licence the Chair customarily allows members in the committee stage, the Chair would bear with me while I simply finish making the process point on the package of amendments, and then we'll be happy to deal with the substantive part of the amendments. Process is always an integral part of a package of amendments, and I think I should not be deprived of the chance to make that observation, Mr. Chairman.

THE CHAIRMAN: Well, the Chair would first of all speak to the issue of relevance. If we were well into the debate and the hon. Member for Calgary-Buffalo were talking on the same line, referring to last night at some length and whatever, if it's on another Bill, then the point may be held. But when the first speaker up on the issue is speaking about the process, then the Chair certainly will allow discussion for a brief while on the issue of process. So what we're saying, then, is that relevance is important. Particularly if we're into a long debate on a particular item, it's important, but when we have a set of amendments, we start off initially by talking a little bit about process.

With that admonition in mind, then we would listen further to Calgary-Buffalo. If the issue of relevance persists, then we might entertain a second point of order.

So with that caveat, the hon. Member for Calgary-Buffalo.

Debate Continued

MR. DICKSON: Mr. Chairman, thank you very much, and I'm certainly mindful of the concerns with respect to relevance.

I think the point I was making was simply this. We have a set of amendments that have come in, three pages, A through L. So it's a significant number of amendments, and they came in with no prior notice. I just asked members to contrast what we did with the 16 amendments that the opposition wanted to introduce on the Bill in terms of giving the government ample time to look at them, to discuss them, and the fact that the minister comes in – we have fax machines; we have couriers. If in fact the government caucus dealt with these this morning, as I expect they did, it would have been possible to send them over, but no. What happens? The amendments are distributed at the commencement of the committee stage. It seems to me that at minimum it's discourteous, but substantively it doesn't help to compress and economize on the time in the Assembly.

Now, Mr. Chairman, moving on to deal with the substantive concerns, what we're looking for and what we continue to hope is that the government will make Bill 24 congruent with the

unanimous recommendations of the Premier's panel. What we see here is in a token way an attempt to respond – and I'm looking at amendment B and amendment A – to concerns in terms of multiculturalism. I see that they have added "source of income" after "marital status," and that's positive. That is one of the recommendations from the committee report.

8:40

I think it's certainly positive in amendment I that the government has listened to the Liberal opposition, accepted one of our draft amendments in part by extending the time to file a complaint from six months to one year. But that still doesn't go far enough, and the reason is this. The recommendation in the amendment put forward by the opposition was that not only would the time for filing a complaint be extended from six months to one year, but there would be the power for the commission or at least for the director in appropriate circumstances to extend that time. That discretion isn't part of this amendment, so we have at least a modest positive step in terms of amendment I.

The other thing that is certainly positive is that section 26 is now amended in that clause (b) comes out. That's not particularly helpful. That's not consistent with the recommendations of the panel.

So if we look through, the only substantive changes I can see, leaving aside the business of multiculturalism, are that "source of income" has been defined, that "source of income" has been added as a prescribed ground of discrimination – that's positive – and then you have the question of expanding to one year the six-month period to file a complaint.

What's not in this series of amendments is anything which addresses independence of the commission. That, Mr. Chairman, is the one single thing that the Alberta Coalition of Human Rights has been asking for.

Mr. Chairman, we see that the government continues to adopt for the most part the minor kinds of recommendations and not to move on the single most important ones, the ones dealing with the control of the education fund, the ones that would make the Alberta Human Rights Commission independent of government.

The provision in terms of multiculturalism is interesting, because when I look at B(b), we now have a recital that talks about the importance of multiculturalism and recognizes it as a "fundamental principle and a matter of public policy." I note that it's in the recital part, and the recital part is of little assistance to the court in terms of interpretation. That would be further ahead to be placed in the body, not in the preamble in a whereas clause. If in fact Bill 24 were amended appropriately, what we would have is a series of purpose or object clauses set out which in fact would be binding on a court that had occasion to interpret it.

The other interesting provision. This is amendment H to amend section 18, which in turn is dealing with section 16 of the Bill. We don't have an object clause or a purpose clause, although section 18 at page 7 of Bill 24 is sort of a backhanded way of doing that. What we have there in section 18, where it sets out the functions of the commission, is that what would now be added to it is (c.1), "to encourage all sectors of Alberta society to provide equality of opportunity."

Now, I take it that's the government's answer to the recommendation of the O'Neill task force, the Equal in Dignity report that talked about the importance of employment equity, employment equity not through quotas, not through mandatory quotas of any kind but by doing what the city of Calgary does, where in effect as a corporate policy – they have a Peter Cresswell who runs the employment equity program – you try and identify areas where you have different members, perhaps of visible minorities, that aren't adequately represented in the municipal civil service. You try and determine what the barriers are, and then you set in place some kind of a process to try and dismantle those barriers without compromising the level or the quality of service. That had been the unanimous recommendation of the all-party panel. The provision on page 2 of the amendment package, amendment H, is in fact not a substantive response. It purports to respond to it, but in a way that is not particularly helpful.

Section 26 is interesting. When we look at amendment J, there had been certainly concern, Mr. Chairman, by a number of business organizations. I think a number of businesses had expressed a concern with section 26, particularly the (b) part. What I find interesting here is that the government has moved on this particular area. Why? It appears that this is something that may be of some concern to the business community, but it doesn't address the concerns raised by the members of the Alberta Coalition of Human Rights and the Dignity Foundation. It misses it altogether.

Mr. Chairman, the item in terms of amendment K, which deals with section 27, says that we're now going to talk about the human rights, citizenship, and multiculturalism Act. I know there were groups that were anxious to see that there be a statute in the province of Alberta with the word "multiculturalism" in it, and certainly the government has responded by putting the name in. We also see in section 28(3) that there's provision there again, but it's effectively the same amendment as amendment K. It's changing the name of the new commission, so we'll now have the Alberta human rights, citizenship, and multiculturalism commission. I think that's useful, but at the end of the day, if we look at the unanimous recommendations of the Equal in Dignity report, we're still far, far short of the mark. If the government thought that this package of amendments was going to make Albertans happy, was going to make the Alberta Coalition of Human Rights go away or make the Alberta Liberal opposition pack up and fade into the darkness, that's not likely to happen.

I think there is so much more that could have been done in Bill 24 that when these amendments come forward, after the outpouring of concern, the many, many submissions in terms of what ought to be part of our human rights legislation, what additional tools ought to be in the arsenal of the Human Rights Commission to combat racism, what we're presented with here is very pale and very limited. I acknowledge that in terms of the limitation period that's a significant step forward. I acknowledge that in terms of incorporating the word "multiculturalism," that is positive and a step forward. Including the additional prescribed basis of discrimination, or ground of discrimination, namely source of income, that too is positive. But those are really the only three significant amendments in this package of amendments.

It's interesting. I'm looking at the package of amendments and comparing them with the most recent response tabled in the Assembly. This is from the women's legal education and action fund. It was a letter I tabled, I think, yesterday dated May 10, 1996, that went from LEAF to the Minister of Community Development. They list a number of things. They wanted to see some things that they thought were positive. They raise something which doesn't appear to be addressed in the amendment package, and that was the lack of support for complainants.

One of their concerns was that the limitation period is too brief. That has been addressed in the amendment package. There's still much concern in terms of the possibility of costs and fines against

complainants, inadequate remedial powers. So we're dealing with one of the three concerns raised by LEAF under the heading "Lack of support for complainants."

8:50

The LEAF group had suggested that the limitation period be increased to two years. In fact, that's much further than either the Alberta Liberal amendment went or the Equal in Dignity report recommended.

There had been a concern from LEAF about dismissal of complaints under section 20(1)(a), and regrettably, that isn't dealt with in the amendment package.

So we still have work to do even after this amendment package in terms of the grounds of discrimination. There is still no duty, a positive duty, on employers to make reasonable accommodation for employees who have a physical disability. That's significant by omission. I had hoped that in the amendment package we'd see section 13 being amended by deletion of section 11(2). In fact, that doesn't appear to be in the amendment package. The concern in terms of whether the rules and bylaws would be subject to any kind of regulatory approval has not been addressed.

The minister still has the Alberta Human Rights Commission completely subordinated to his deputy minister and his office and his staff, so the independence of the commission is still a goal that is not in any sense realized in the amendment package that's before us.

Control over the important education fund still resides exclusively with the Minister of Community Development, so that's a concern as well. I would have thought that it would have been appropriate to have dealt with that in, I think, amendment H, page 2 of the government amendment package, but it does not appear in there.

We still don't have a provision – and I would have thought this would have been important to advantage particularly multiculturalism – to allow the commission to be able to issue written advisory opinions on issues concerning tolerance, racial and cultural diversity, and human rights protection, to identify areas of systemic discrimination, to help educational programs designed to eliminate these discriminatory practices. That was one of our amendments. It's not in the amendment package, although it might have fit very neatly in amendment H.

The Standing Committee on Legislative Offices: there's no provision for that. There's no provision to change the reporting mechanism so that the commission reports to the Legislative Assembly rather than to the minister. As I look through the series of 16 amendments that we've filed, of the 16 amendments, effectively two of them have been accepted by the government and incorporated into this amendment package. There's no provision to repeal section 25 in Bill 24. We still have the situation where systemic discrimination is not going to be addressed in as aggressive a fashion as we had hoped and many Albertans have asked for.

Mr. Chairman, I attempt to assess these amendments by looking back to what was said by the minister on April 18, 1996, when he led off debate at second reading on the Bill. He said:

> We are incorporating the recommendations that this government accepted from the Human Rights Review Panel. I want to remind everyone that this government accepted 54 out of the 75 recommendations, or about 70 percent.

As we see in this amendment package, even with this amendment package, if it's accepted, we had before 47 percent of the Equal in Dignity report recommendations accepted without variation. I suspect that's been bumped up now to perhaps something in the order of 54 percent. So we still have a very long way to go, and I hope others will be able to flesh that out.

Thanks.

THE CHAIRMAN: The hon. Member for Stony Plain.

MR. WOLOSHYN: Thank you, Mr. Chairman. I certainly appreciate the unequivocal support that Calgary-Buffalo has given to these amendments, and I look forward to his voting for them. However, I would like to also give the hon. Member for Edmonton-Mayfield the opportunity to read, study, absorb, and go through all these amendments tonight, tomorrow, and even through the weekend, if he so chooses, because there was certainly no intent to force members on either side of the House to make hasty decisions on these important amendments. As a result, I move that when the committee rises, we report progress on Bill 24.

THE CHAIRMAN: Okay. The hon. Member for Stony Plain has moved that when the committee rises, we report progress on Bill 24. All those in support of this motion, please say aye.

SOME HON. MEMBERS: Aye.

THE CHAIRMAN: Those opposed, please say no.

SOME HON. MEMBERS: No.

THE CHAIRMAN: Carried.

Bill 26
Child and Family Services Authorities Act

THE CHAIRMAN: We have some amendments before us as moved by the hon. Member for Edmonton-Highlands-Beverly. If memory serves correct, we had amendment A2 for our consideration.

MS HANSON: Mr. Chairman, we had changed the naming of them. Last time we spoke, you told me that what we have as A1, you are calling A2. Is that correct?

THE CHAIRMAN: What I would say, hon. member, is that in the list of amendments that you submitted, the first one is amendment A. We call that amendment A2 because it's the second amendment considered under Bill 26. Then your item B presumably is going to be A3, unless some of them can be combined together. So we are on amendment A2 as moved by yourself.

MS HANSON: Yes, and I believe that we are finished speaking on this side and are ready for the vote on amendment A2.

[Motion on amendment A2 lost]

THE CHAIRMAN: Edmonton-Highlands-Beverly, do you want to do B, C, and D together and call it A3, or do you just want to do B as one or what?

MS HANSON: No. I would like to do each amendment separately.

THE CHAIRMAN: Okay.

[Mr. Herard in the Chair]

9:00

THE ACTING CHAIRMAN: Go ahead, hon. member.

MS HANSON: Mr. Chairman, A3 had been moved previously, and I had spoken to it at that time, on May 2.

THE ACTING CHAIRMAN: Okay. The question has been called on amendment . . .

MS HANSON: Yes. So we will have some more speakers? Does that jibe with what you had?

THE ACTING CHAIRMAN: I don't want to stifle debate on this. Is there anyone else who wants to speak on amendment B which we're calling A3?

If the hon. Member for Edmonton-Highlands-Beverly is done, then we'll recognize the hon. Member for Calgary-Buffalo.

MR. DICKSON: Mr. Chairman, I thought that member was still speaking.

The numbering provision always gets a bit confusing. What I'm looking at is the one that strikes out in section 1(c) subclause (iv). Have I got the right amendment?

THE ACTING CHAIRMAN: No. It's item B on the sheet, and we're calling that A3: move that section 2(3) be struck out.

MR. DICKSON: Okay, I have it, sir. Mr. Chairman, as I understand it, what we're dealing with right now is the provision that it would strike out section 2(3). Okay.

My concern with that is that that provision is necessary, and the reason is that the Regulations Act must prevail here. The Regulations Act sets out some minimal requirements, some minimal standards to be met. The Regulations Act would require that pursuant to that Act the regulations be filed with the registrar before they can come into force.

> A regulation that is not filed . . . has no effect . . . the registrar [must then] within one month of the filing of the regulation, publish the regulation in The Alberta Gazette.

So anyone interested has an opportunity to review the regulations. I think that when it comes to establishing boundaries, the naming of regions, those matters are significant enough and substantial enough that it should warrant the very limited protection of the Regulations Act.

Now, as we discussed at length last night, the Regulations Act still doesn't go far enough, because the Zander committee report, which led to the current Regulations Act, had also suggested that we have that standing committee reviewing law and regulations. That particular wrinkle was not carried forward into the Regulations Act, and that's a shortcoming. Nonetheless, the Regulations Act is currently as good as we have. One might ask: why would it be that we'd say that these all-important orders made by the minister wouldn't apply under the Regulations Act? It would seem to me that we need all the safeguards we can get because of the importance of dealing with services for children in this province. I think this amendment is a positive one. I think it's helpful, and I'd encourage all members to support this particular amendment.

I don't know how many regions the minister plans on setting up. My understanding is that it's 17 to correspond with the regional health authorities, but we should recognize that there's nothing in section 2 that requires that the boundaries be coterminous with a regional health authority boundary. So you may well be in a situation, Mr. Chairman, where the minister could do something very different than what the current expectation is of members, what the current representations are of the minister. What the minister outlines as some kind of a plan is not appended here as a schedule. It's not an appendix to the Bill. It doesn't become part of the law, and that's why I think it becomes important that we build in the additional safeguard. So it's for that reason that I support this amendment. I think it's a positive one. I encourage all members to support it.

With that I'll take my seat so that other members can join debate on this important amendment.

THE ACTING CHAIRMAN: The hon. Member for Edmonton-Highlands-Beverly.

MS HANSON: Thank you, Mr. Chairman. I'd just like to say a few more words on this amendment. Communities are being asked to take on a great deal of responsibility, and I believe that it's really important that there's an open process of developing the regulations. Some of the working groups are still in the initial stages of information sharing and are just beginning to plan programs, and they don't have a clear understanding of the role of the minister or his department. Many of the people don't feel comfortable with the time that's allowed or what kinds of programs that their group submits to the steering committee will meet the funding criteria. There isn't a funding formula of any kind. Communities need to have as much information as possible so they feel comfortable that they know what the process is going to be, that it's open.

I ask all members to support this motion because it's an important step towards an open and trusting partnership between the communities and the government.

Thank you.

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

MR. BRUSEKER: Thank you, Mr. Chairman. Just briefly speaking to amendment A3. I think that's the number we're giving to this particular amendment to delete section 2(3) of this Bill 26. The amendment that would delete section 2(3) would then cause the Regulations Act to in fact have some effect under this piece of legislation.

The concern that I have and the reason I'm supporting this amendment that we have before us at the moment is that what this would do is require a publication of regulations, either new regulations or amended regulations, to be disclosed in a public fashion in the *Alberta Gazette*. If we do not pass this amendment and the Regulations Act does not apply to this section, then indeed there is no requirement for any public disclosure of regulations that are passed or produced as a result of this section.

The purpose of the Legislative Assembly, of course, is to promote and foster public debate on issues of importance to Albertans. Well, what could possibly be of more importance to Albertans than children and family services across this province? So to not have the Regulations Act apply means that there would be no requirement of the government to make those regulations public. There would be no requirement to make changes to regulations public, and there would be no requirement to publish those. So if someone has an opportunity or desire or perhaps

even a requirement, if they're working for the government in child and family services, to look at those regulations, there's no mechanism to do so.

So, Mr. Chairman, this amendment simply would result in proper disclosure, if you will. The government talks about being open and accountable on a regular basis, and indeed what this amendment would do would be to preserve that avowed policy of the government to be open, to be accountable, to provide those changes, and provide information to those individuals who need those changes and that information to be made available. Therefore, as the Member for Calgary-Buffalo has said, it's a positive amendment. It would result in very little extra cost, I'm sure, to the provincial government to add to the monthly publications of the *Alberta Gazette* new regulations that are being created.

The other thing that's interesting, Mr. Chairman, is that if indeed we require regulations to be published in the *Alberta Gazette*, then presumably the government would be somewhat more cautious in creating and passing new regulations under section 2. I remember not too many years ago when we were in a situation that is not unlike what section 2 talks about, and that is the creation of boundaries. Now, at that time the issue was the creation of provincial constituencies under the Electoral Boundaries Commission Act, and the interesting thing we had happen there was that after a map was produced, indeed there was a section of the province of Alberta which was not included in any provincial constituency at all. You may recall that was early on in 1993, just before the provincial election. Certainly that had to be amended before we could have a provincial election because in effect what had happened was that there were a number of Albertans who were effectively disenfranchised.

9:10

Well, Mr. Chairman, section 2 talks about creating "child and family services regions" in the province of Alberta. Now, if we don't have any scrutiny, if we don't have any second look at those regions that are proposed to be created, what is to prevent a similar occurrence from happening where indeed a portion of the province may be left, if you will, as a hole in the province, where there is no provision of these services whatsoever? Now, that would be a severe oversight to the residents of that particular area, wherever that may be within the province of Alberta, but more importantly it would be an oversight that would potentially be unnoticed without having that possibility of review that I believe would be promoted by the publication of these regulations in the *Alberta Gazette* or indeed the Regulations Act to add force to section 2. Therefore, this amendment, by removing subsection (3), would cause the Regulations Act to apply, would presumably cause then the publication of new regulations to be made in the *Alberta Gazette*, and then individuals who had an interest in that area would review boundaries to ensure that there was no lack of coverage or perhaps duplication of coverage in certain areas, which may result then in inappropriate amounts of dollars being allocated to different areas.

So the concept of a second review by interested individuals I think would be fostered by this amendment, and therefore I support the amendment as put forward by the Member for Edmonton-Highlands-Beverly and encourage all members to do so as well.

[Motion on amendment A3 lost]

THE ACTING CHAIRMAN: The hon. Member for Edmonton-Highlands-Beverly on A4.

MS HANSON: Yes. I move amendment A4. This amendment is for section 7. Section 7 describes the agreement between the minister and the authority and lists the items that may be addressed in the agreement. The items are as critical as those the child and family services are responsible for. "The funding and other resources to be provided . . . by the Minister," and even the "delegation" of ministerial "powers and duties to the Authority" are listed as things that may be included in the agreement. Our amendment substitutes "shall" for "may." If the authority is to be the document that describes the relationship between the authority and the government and the responsibilities of each, items such as funding, the type of services, the delegation of powers are too important not to be spelled out in the agreement. These items should be mandatory inclusions in every agreement.

Mr. Chairman, this is a key amendment. Legislation must be very clear when government enters into an agreement with the authority, and we do not see clarity here. Section 7, as in section 2, gives the impression that the government wants to keep its options open. Surely the authorities need to know clearly what areas will be funded. If there are some programs that the government doesn't want to fund, communities need to know who will do it.

The purpose of this whole exercise as described by the commissioner's report is to improve the child welfare system in this province by giving community people more input over children's services and ensuring that local issues are efficiently and effectively addressed. It then follows that the terms of the agreement with the authorities must be clearly spelled out in the wording of the legislation.

I encourage all members to support this amendment.

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

MR. DICKSON: Thanks, Mr. Chairman. I'm happy to rise in support of this amendment. To me the curious thing would be: what would be the opposition? What would be the basis for not amending section 7 in the fashion proposed by this amendment? It doesn't say how extensive the description must be in the agreement. It doesn't say what the exact term has to be. It just says that these are some core elements that have to be addressed in some fashion in the agreement.

Let's go through them. If one looks at section 7(1)(a), the agreement under this amendment must address "the child and family services for which the Authority is responsible." Under what possible circumstances, Mr. Chairman, would it be appropriate not to identify and define those particular services? It seems to me that that would be the core of any agreement.

One looks at section 7(1)(b): "the administrative and other services to be provided to the Authority by the Minister." On what basis would we not want to spell out in the agreement what the minister is going to do, what kinds of administrative services? It would be essential for proper budgeting. It would be necessary for any kind of adequate management. I don't know how else we could hold the authority accountable if we don't have very clear demarcation in terms of responsibilities, in terms of what the minister is doing on one hand and what the authority is doing on the other. Once again, this isn't prescriptive in terms of saying that the agreement must say that the minister will provide this, this, and this. It simply says that the administrative and other services have to be spelled out in the agreement. That's the import of the amendment.

One looks at section 7(1)(c): "the funding and other resources to be provided to the Authority by the Minister." I challenge anybody to offer a reason in terms of why we wouldn't insist on that provision being included in any agreement between the minister and an authority. That ought to be a core element. With respect, I think what the Member for Edmonton-Highlands-Beverly is saying is that these are all core elements, and each one of them must be addressed. It doesn't say that they all must be addressed in precisely the same fashion, but they have to be addressed in the agreement. That makes good sense.

One looks at 7(1)(d): "the designation by the Minister of statutory officials in the region administered by the Authority." Well, the minister is going to have to do that in any event in terms of designating certain statutory officials pursuant to the provisions of the enabling legislation. Why wouldn't that be spelled out in the agreement? I challenge anybody to offer a scenario where it would not be necessary, would not be prudent, would not be responsible to spell that out in the form of I'll call it the mother agreement between the minister and the authority.

If one looks at section 7(1)(e), the amendment would require "the delegation by the Minister of powers and duties to the Authority . . . or any person acting on behalf of the Authority." On what basis would we not want to spell out those powers and duties? Why wouldn't that be an essential element of every agreement entered into between an authority and the minister? I think clearly it should be. Once again, it's not prescriptive. It doesn't insist on a particular formula. It may be a little different in each one of the 17 regions, or more if there are more, because the Act doesn't limit the number of regions. Once again a prudent element that would be considered a mandatory, essential component if this amendment were accepted.

We look at section 7(1)(f): "the transfer of assets and contractual obligations from the Minister to the Authority." I challenge anybody to set out a scenario or a reason why that shouldn't be prescribed in the agreement between the minister and the authority. What possible reason would there be for not including that, Mr. Chairman?

Item 7(1)(g):

> the transfer of responsibility for the care and maintenance of children who are the subjects of agreements and orders under the Child Welfare Act.

I can think of nothing more important that would have to be included in such an agreement than details of who is going to be responsible for the care and maintenance of children under the Child Welfare Act. On what basis is that an opt in or opt out? On what basis do we say that those children are subject to some whimsy, some discretion? I think that Albertans would expect that 7(1)(g) would be an essential, mandated, compulsory element of every agreement between the minister and an authority.

9:20

Then 7(1)(h): "any other matter agreed to by the parties." That's a residual clause. Once again, this is basic contract law, but it's made dramatically more important because of the important subject matter. These aren't contracts dealing with the transfer of hospital beds or contracts dealing with the provision of highway maintenance. These are agreements, contracts which talk about who's going to look after children in care of the province.

It seems to me that this amendment is a minimal kind of amendment. If there's any member who would vote against this – and I'm going to encourage the Member for Edmonton-Highlands-Beverly to require a standing vote on this amendment. I think this is so important that if there is somebody who thinks that there's some good reason why this shouldn't be required to be a key amendment, let's find out what those reasons are. Surely to goodness, with the importance of children in care of the province, if their services are going to be subject to some kind of unwritten provision that may or may not be in some of the 17 master agreements between the department or minister on the one hand and the regional authority on the other, we should know about it. We should know what those reasons are.

I think this is a compelling amendment, if I might say that. I'm tempted to think of what the reason would be not to provide this stipulation. I'd make this general observation: this Act is incredibly loose; it's amazingly nonspecific, nonprescriptive. It seems to me that we've gone from one extreme to the other. If one looks at the Child Welfare Act and some of the other statutes that have been keenly prescriptive and then we get to section 7, which is the subject of this particular amendment, Mr. Chairman, what one finds is that we've gone absolutely from one extreme to the other. We've left this most important responsibility of the state, the care of these children for whom the province of Alberta is responsible, and it's something that's now going to be done sometimes by express agreement, I guess. If these things aren't in the agreement, one's going to have to look through correspondence or some ancillary agreements. Who knows where else people are going to have to look to find out what the basis is?

I think the other reason for supporting this amendment would be that it means if you're an Albertan and you want to find out what the requirement is of the authority in your region, if in Calgary I want to find out what the regional authority's powers and responsibilities and obligations are, why shouldn't I be able to go to a single agreement and have all of that spelled out? Without the amendment that can't happen. Without this amendment that's currently before us, I or any other Albertan is on something of a wild-goose chase where we're running here and there and we're trying to find out what the basis is. We might be having to pore through piles of correspondence. Where would an Albertan look who wanted to find out this information? Why shouldn't they be able to access a single agreement that spells it all out in clear and express and unambiguous language?

Mr. Chairman, I expect that there are others that will want to join debate on this particular amendment. I don't see a more important amendment that has come before this Legislative Assembly or will come in front of this Legislative Assembly in this session than the amendment we're dealing with right now. I encourage every member to vote in support of it. If there is any reason why a member might be inclined to vote against it, I challenge them to tell us and to tell Albertans by putting their explanation and their reasons on the record. If they choose not to do that, then I think Albertans can draw the natural inference that the important care of children in this province is not of primary importance to them.

So those are my comments, Mr. Chairman. Thank you.

[Two members rose]

THE ACTING CHAIRMAN: The hon. Member for West Yellowhead.

MR. VAN BINSBERGEN: Mr. Chairman, with apologies to my senior colleague here for jumping the gun, I've been perusing this amendment. In fact, I've seen it for quite a while, as I think members opposite have as well. First of all, maybe I should make it very clear and abundantly clear that I'm speaking in

support of this amendment, which is probably not a great surprise to my colleagues. I am amazed, quite frankly, that on such an important topic as we're dealing with, namely children's services, the care of our children – and we can go into enraptured praise and put it this way: it is our future and so on and so forth. Yet when it comes down to the legislation that governs our dealings with them, we put everything in the form of "may." "The Minister and an Authority may" address certain things in the agreements.

I'm rather shocked that the government would come out with such a tepid reflection of what ought to happen. There should be no choice in this matter, Mr. Chairman. It should clearly state in the Act – and that's why this amendment was brought forth by the Member for Edmonton-Highlands-Beverly – that the minister and the authority must enter into an agreement and that it is unequivocal. That they "shall," I guess, is legally perhaps even a better and a more acceptable phrase.

When we look at the items in section 7, "the child and family services for which the Authority is responsible," how in tarnation is it possible to make it optional for the government, the minister, and the authority to say: "Well, let's not talk about that, you know. Let's not make that subject to the agreement. We'll just do something, no matter really what"?

"The administrative and other services to be provided to the Authority by the Minister." Well, it seems to me that without those, no one really knows what's going on and how it ought to be carried out.

Item (c), the very important, basic, underlying item: "the funding and other resources to be provided to the Authority by the Minister." Now, to think of the possibility of the minister and the authority trying to arrive at an agreement without talking about funding is like this Legislative Assembly and government trying to function without a budget. It doesn't make any sense to me. Those are the financial underpinnings.

We go on to the actual powers that the authority has. Now, just picture this: the authority just tries to do its duty without knowing what powers it has. That is conceivably possible.

Mr. Chairman, I can go on and on, but I'm sure that by this time members opposite, too, have recognized the folly of writing in this Act the word "may" rather than "shall." I'm convinced of that because these people, too, are bright enough to realize that when it concerns our children, there should be absolutely no shade of a doubt. Therefore, I ask, I urge all members opposite to accept this very, very commonsensical and necessary amendment.

Thank you very much.

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

MR. HENRY: Thank you, Mr. Chairman.

MR. DAY: Persuade us really quickly.

MR. WOLOSHYN: If you work quickly . . .

9:30

MR. HENRY: Thank you, Mr. Chairman. I rise in the face of two House leaders in this House waving their arms at me and trying to convey something to me in sign language. I did want to go on record as offering my thanks to the Member for Edmonton-Highlands-Beverly, true to her tradition of serving the community and doing that very well. With her integrity she's brought some responsible amendments here. This particular amendment I think will go a long way to helping restore some trust out in the community that the government does indeed intend to remain responsible and I hope will be able to hold the child and family services authorities responsible as well.

I would urge all hon. members on both sides to support the amendment.

[Motion on amendment A4 carried]

MS HANSON: Mr. Chairman, I believe we're now on amendment A5, or D as written in my presentation. Amendment A5 is in regard to section 8. It's a very important section of the Bill because it sets out the legal responsibilities of the government. Nowhere in this section does it state that the government will retain ultimate responsibility for the safety and well-being of children, and I find that to be a very serious omission in a Bill of this kind. It may be loosely stated in the preamble, but that isn't legally binding. It's legally insignificant. It's a nice gesture, but it won't do anything to keep children safe.

Our amendment inserts a new subclause in the very beginning of section 8 which says:

> Subject to the terms of any agreement, the Minister and any other member of Executive Council who is a party to an agreement are responsible for the following:
>
> (a) all actions and decisions made on behalf of children and ensuring that all activities undertaken by the Authorities are in the best interest of the child.

We found that to be very important because there is no clear statement in any other part of this Bill that any activities of the authorities must be in the best interest of children. Without this amendment the move to regionalize will really amount to nothing more than dumping the most important of government responsibilities onto local authorities, and the local authorities could then just auction off the services to the lowest bidder.

The minister keeps stating that we should just trust him about this, that the government will retain legal responsibility. The minister has said that a number of times. If that is so, why isn't the guarantee spelled out in the legislation? Why would you keep it out of such an important Bill? If we are to believe the minister's promise that ultimate accountability and liability will rest with the government, then the government members should have no problem with this amendment.

The second part of amendment A5 is to ensure that the government does more than "monitoring and assessing Authorities in carrying out their responsibilities." This is as it states in section 8(c). We have added the following. In section 8 we have added (f), "enforcement of policies and standards." The government can monitor and assess, which is what it says in 8(c), all it wants, but without stringent enforcement what's the point of watching over the authorities if you're not going to compel any authority to move?

I've said all I need to say on that, and I urge everyone to support this amendment. Thank you.

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

MR. BRUSEKER: Thank you, Mr. Chairman. Just a few comments. The amendment that adds a new clause, (a.1), to section 8 includes the phrase that "all activities undertaken by the Authorities are in the best interest of the child," and I want to emphasize "best interest of the child." [interjection] It sounds like the Canada geese are back.

Having had the opportunity to spend 10 years of my life working with children in the province in our education system, Mr. Chairman, the question we often asked ourselves as professional instructors in the classrooms was: what is in the best interests of the child in terms of placement within the classroom, in terms of the classroom setting, and perhaps even within the school itself? One often hears in divorce cases, when a custody issue is coming forward, that the judge will make his or her decision based on what is in the best interests of the child. So I think it's incumbent that this be included. The hon. government Whip has said that this is covered in the preamble, but having it in the preamble in a somewhat loosey-goosey phrased fashion does not put it into the force of law, which this amendment would do. So I would say that it is important indeed that this be included as a significant improvement to the Bill that we have before us today, Bill 26.

The second part that will be added as part of amendment A5 is to add a new clause (f). It's all well and good to say that you're going to set objectives, that you're going to have policies and monitor and assess and so forth, but obviously you have to have some enforcement that comes into play as well. Certainly there would be no point, for example, for the Minister of Transportation and Utilities to have a Highway Traffic Act but not have any police services in the province of Alberta to actually monitor speeds or other traffic violations. Similarly, where we have enforcement and monitoring in that particular piece of legislation, the second part of the amendment, to add a clause (f) to section 8, indeed would put that same onus upon the government.

Mr. Chairman, with those brief comments I simply want to support the Member for Edmonton-Highlands-Beverly in her amendment A5, which I think adds two significant clauses to section 8 of the Bill.

Thank you.

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

MR. DICKSON: Thanks, Mr. Chairman. A suggestion has been made that this amendment may be unnecessary, at least the first part of it, on the basis of the preamble to Bill 26, but there are two problems with that. The first one is that a preamble is not nearly as persuasive to a court that may have occasion to interpret the provisions in the statute as a purpose clause, and failing a purpose clause, if there's a principle integrated into part of a section, that's far more useful and far more helpful than something in the preamble.

Now, quite apart from the geography of the Bill, those provisions even in the preamble are pretty vacuous and pretty unhelpful. I mean, I go through these things, and I don't really see any value basis in here. We talk about security, safety, well-being of children and families as a paramount concern. What we have to recognize is that the two aren't synonymous. The interests of a family are not universally the same thing as the best interests of a child. I mean, we have plenty of experience through the Child Welfare Act. We know that sometimes there's divergence, and this Act would be of no help to somebody trying to figure out where the legislators in the province of Alberta decided that the emphasis should be put.

You know, I look at a whereas clause when I'm dealing with this amendment, such as the second whereas clause on page 2. It says:

> Whereas the safety, security and well-being of children, families and other members of the community is best achieved through an integrated response,

et cetera, et cetera. I mean, what does that tell us? Who have we left out? We've got the community, we've got the family involved, and we've got the children tucked in there someplace. It seems to me that if the purpose of the Bill is to advantage children, let's say it and let's say it in a way that's not so ambiguous and we don't have to sort of guess and hunt and peck to find out where that principle is found. So I think there's no satisfactory substitute to this amendment.

9:40

I look at the other whereas clause. The first one simply talks about a priority for the government of Alberta, but it refers to children and families. It doesn't do any wading between the two elements.

In the second whereas clause we've got "parents, families, extended families and communities" all lumped together. So what help is this in terms of making choices between any of those elements?

The next preamble talks about "the ability of communities to support and respond to the needs of children, families and other members," which seems to me to be pap. I mean, that's about as empty phrasing as you could find.

I touched on the next whereas clause, the third whereas clause, on page 2. Once again we lump in "children, families and other members of the community." Once again, whose left? I mean, this Bill isn't about making choices and weighting different factors. I don't see anything in this preamble that puts children first.

Maybe the closest thing that we've got in the whereas clauses, when I'm trying to make some sense of the section that would be amended, section 8 that would be amended by the amendment, is the one dealing with "First Nations, Metis and other aboriginal peoples." I mean, we have a clear value being expressed here. I'm talking, Mr. Chairman, about section 8 and the reason why that's important, and I'm doing it by reference to the preamble.

In the last clause in the preamble, when I'm looking at section 8 and trying to find whether that's already covered someplace – that's what I'm attempting to do, Mr. Chairman – we see reference to

> the Government . . . has an ongoing responsibility to ensure and oversee the provision of statutory programs and services to children, families and other members of the community.

So, in short, there's nothing in Bill 26 that puts children first and foremost, and I think there ought to be. What this amendment does is make it very clear that we're dealing with "the best interest of the child."

Mr. Chairman, as my colleague for Calgary-North West said a moment ago, the best interest test is well recognized in the jurisprudence under the federal Divorce Act. It's recognized in the jurisprudence under the Domestic Relations Act. It's recognized in the jurisprudence under the Provincial Court Act. So it's well established. We know what the best interest of the child is. It's been defined in numerous cases. What happens with this amendment is that we're able to in effect trigger and tap into that whole body of jurisprudence. So it means something; we have some sense of what we're putting first and foremost.

The second part – this would be the new clause (f) to section 8 – is again one that I would think the government would willingly embrace. It has little to do with children and more directly would ensure some kind of universal standards on a provincewide basis. I think that's important.

It's one thing to say in 8(b) that the agreement would establish "policies and standards for the provision of child and family

services," but what happens if the standards aren't maintained? The Bill is silent on that. This amendment, the new proposed (f), addresses that. It says that not only do we do what's provided for in section 8(b), but in this addition we would also have the power and the agreement would spell out how those policies and standards could be enforced. I think that's important, Mr. Chairman, and I encourage all members to support this particular amendment.

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

MR. CHADI: Thank you, Mr. Chairman. I, too, in reviewing the Bill am wondering about the clause suggesting that the interests of the child and the best interests of the child should be taken into consideration. Paramount, in my belief, in the preamble is: "Whereas the safety, security and well-being of children and families is a paramount concern of the Government of Alberta."

One area gives me some concern, though, and I don't think it's very much of a problem to be able to insert it as (a.1) in section 8. I don't think it's asking a great deal. If it says it in the preamble, certainly we can ensure that we have it in the section itself, because I believe that what the Member for Calgary-Buffalo was saying in fact is probably what is going to come out some day soon in some court action if it's not spelled out in that particular section of the Act. I don't think it's too much to ask for to say that "all actions and decisions made on behalf of children and ensuring that all activities undertaken by the Authorities are in the best interest of the child."

Mr. Chairman, there was much concern over the last little while for a Bill such as this, particularly with respect to the children of this province. I know from experience that there is a great deal of unrest today in this province in the child welfare arena. I know myself that the calls I get in my constituency office with respect to this area are, I would think, the most frequent calls that I get, along with things like WCB and social services. Many of the calls that do come in talk about the best interests of the child. Parents or grandparents or uncles, aunts, relatives, neighbours, or friends are talking about the best interests of the child. I think that if we have such a clause embedded within this section – and I know that it's in the preamble. I believe it's covered in the preamble but loosely covered in the preamble perhaps, and it wouldn't be asking a great deal to put it in this section.

Another area that the hon. Member for Edmonton-Highlands-Beverly – and again I congratulate her for bringing this forward, because I think it's an important part of section 8. It would be adding subsection (f), and that is with respect to "enforcement of policies and standards." When I look at section 8, it talks about:

> Subject to the terms of any agreement, the Minister and any other member of Executive Council who is a party to an agreement are responsible for the following.

So we're talking about the minister and any member of Executive Council and their responsibilities, but we don't talk about and excluded from that section within responsibilities is "enforcement of policies and standards." I'm wondering if it wouldn't be a wise idea to include that in there. I have not seen anywhere else in the Bill a provision for enforcement within the responsibilities of government.

I would like very much if perhaps maybe the mover or the minister could elaborate a little bit with respect to this amendment. If the government is considering not supporting this amendment, I would like to know why it would not be included within section 8; that is, in particular, "enforcement of policies and standards."

So with those comments, Mr. Chairman, I would hope that perhaps maybe the Minister of Family and Social Services will respond. Thank you.

[Motion on amendment A5 lost]

THE ACTING CHAIRMAN: The hon. Member for Edmonton-Highlands-Beverly.

MS HANSON: Thank you, Mr. Chairman. The next amendment, which is amendment A6 on your paper, is a small amendment in section 9 of the Bill. Section 9(1) is:

> Subject to the terms of an agreement, this Act and the regulations, an Authority is responsible for the following:
> (a) promoting the safety, security, well-being and integrity of children, families and other members of the community.

Well, our amendment is to strike "promoting," because it seems to me that when an authority is responsible for children and families, "promoting" is a very weak word. Surely as communities taking responsibility for the safety and well-being of children, "promoting" doesn't belong there. It's simply "the safety" and "security."

Thank you.

[Motion on amendment A6 lost]

9:50

MS HANSON: Amendment A7, Mr. Chairman, is to section 19 of the Bill, which excludes a member of an authority from liability. The government may claim that this is a standard practice in legislation. Our amendment strikes out section 19 altogether.

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

MR. HENRY: Thank you very much, Mr. Chairman. I just wanted to make a couple of brief comments, if I could squeeze in, regarding the amendment moved by the hon. Member for Edmonton-Highlands-Beverly. The gist of the amendment is to remove section 19 from the Bill. Section 19, on page 10, for members' reference, says:

> No action for damages may be commenced against a member of an Authority for anything done or not done by that person in good faith while carrying out duties or exercising powers under this or any other enactment.

I have to ask the government why it is that that particular clause is in there. It seems to me that most local authorities, whether they be created by statute or whether they be created by volunteers, insure themselves in terms of liability and insure their directors in terms of liability. If an individual has found their child to be mistreated while under the care of the local authority and there is a case to be made that that could have been avoided and that it wasn't avoided because the officers or the directors of the authority didn't exercise due diligence in ensuring there were standards in place or ensuring there was adequate monitoring of services, it seems to me that there should be that recourse through the courts.

We have a legal system, Mr. Chairman, and whether members of this House always like that legal system and always like what

it does or what it doesn't do, the fact of the matter is that it's better than any in the world. What this section would do is remove any recourse by families or communities with regard to members of child and family authorities with regard to remedies in the courts. It seems to me that a recent example we've all dealt with, which I know the Minister of Family and Social Services is well aware of, is the amount of child abuse and sexual abuse now coming to light that was perpetrated in residential schools in years gone by. Primarily the victims were aboriginals in our communities. Now, I know every member in this House shares my revulsion at those acts and agrees with me that we owe those individuals a major apology. We have to look at how that was allowed to happen.

That was allowed to happen because systems let it happen, and the individuals who had the ultimate responsibility for directing those systems, for designing those systems, and for governing those systems did not, Mr. Chairman, live up to their responsibilities with regard to the children. So not only are the perpetrators in that particular context culpable in my view, but the governors of that particular system of the day are also culpable if they knew there was abuse going on and if it was reported and not dealt with. I'm familiar with a couple of cases that are in the courts right now. I won't comment on them because it would be sub judice, but there have been cases recently where not only has fault been found with the perpetrators of abuse, but in fact institutions have become liable because they knew of the abuse or the abuse was reported and not investigated.

So when individuals come to the child welfare authority, they need to know that their responsibility for the welfare of the most vulnerable children in this province, the children who are at risk of being abused or neglected, is a major responsibility and that they need to be held accountable for the decisions they make. So if they sit there and we end up with a government who continues to choke the child welfare system in terms of dollars and resources and not allow adequate care for children but allow children to be kept in hotel rooms when they should be in quality custodial care and getting treatment, when that happens and a member of the child and family services authority condones that and doesn't seek other remedies, Mr. Chairman, individuals and families and communities must have recourse. Those individuals must know that it's their responsibility, not just totally the government's, to stand up and to point out what needs to be done and to use all the resources available to them.

Let me give you another example, Mr. Chairman.

Chairman's Ruling
Decorum

THE ACTING CHAIRMAN: Before you give me this other example, it's getting pretty loud in here. It reminds me a little bit of feeding time at the zoo. Could we have a little bit of quiet, please, so we can understand the hon. member.

Thank you.

MR. HENRY: Thank you very much, Mr. Chairman. It seems as the volume of my voice gets louder, so do the rest of the members. I know that some of the members across would like me to go in the closet and whisper it to somebody, but perhaps we can reach a saw-off here and come to a compromise.

Debate Continued

MR. HENRY: The point I want to make, Mr. Chairman, is that if we have a situation whereby children who have been abused or neglected are apprehended because there's nowhere else for them to go where they could be safe, if those children are placed in more abusive situations because the child and family authority did not enforce standards or did not do criminal checks of foster homes or did not adequately fund those homes and provide the services and that child is further abused, then it seems to me that at a later point that child should have some recourse.

This particular section of the Bill, 19, would basically, I will acknowledge, allow recourse to the institutions but not to the individuals. Designing services to protect and care for our most vulnerable children: there is absolutely nothing more important that we can do in this Legislature, Mr. Chairman.

Mr. Chairman, when I first ran in 1993 for public office, I said very clearly to myself that if we could eliminate child poverty and if we could seriously effectively address the issue of violence, particularly violence against children, if we would do nothing else, we would have accomplished major, major gains.

[Mr. Tannas in the Chair]

We have an opportunity with this Bill to go part of that distance. But this Bill, I think in particular this particular clause, 19, diminishes for those persons who are appointed to the authority the importance of their task and the importance of ensuring that they not only act in good faith but act with due diligence, ensuring that they make decisions in the best interests of the children who are in their care.

10:00

So in summary then, Mr. Chairman, I would urge all hon. members to support this amendment, to withdraw section 19 on page 10 from the Bill so that when members are appointed to the child and family services authority, they know very, very clearly that not only are they in that position to make decisions in good faith, but they're in that position to make decisions in good faith and with due diligence. This is not to preclude that those authorities would have liability insurance that would provide legal counsel and awards in the event that an action was successful against one of those members. I'm not suggesting that if you go on a family and children's services authority board that you be required to essentially take the risk of putting up your house and home in terms of potential liability, because I do believe the responsible thing for the authority would be to buy insurance for the members of the authority or the directors, if I can call them that, of the authority, but I do believe that children who have been abused or neglected or who are psychiatrically ill who are in the care of those authorities should have recourse to the courts, not only against the institution but against the actions of the particular individual if indeed – if indeed – those individuals are liable or have acted in a reckless manner or have not fulfilled their responsibilities with due diligence.

With that, Mr. Chairman, I will take my place and allow the hon. Member for Red Deer-South to take his place as well. Thank you.

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

MR. DICKSON: Mr. Chairman, thanks very much. I've got a number of concerns with section 19 that are addressed by the amendment. The reason that I'm happy to speak in support of the amendment would be this. It's interesting that in this Bill, where we leave so much to the discretion of the minister and there are

so few prescriptive elements in here, we're in such a rush to do this extraordinary thing in section 19. By an extraordinary thing I mean the taking away . . . [interjections]

Chairman's Ruling
Decorum

THE CHAIRMAN: Order. Hon. members, we're sorry to disturb your deliberations, but we are trying to have a committee here where we can hear the member speaking, given that he has a strong voice. I wonder if you could have your deliberations at a lower octave or register. If you can't, then go out into the outer chambers. If we can hopefully have the attention of the committee, we would ask the hon. Member for Calgary-Buffalo . . .

Debate Continued

MR. DICKSON: Mr. Chairman, thanks very much. And in response to those members opposite that suggest that they've heard this before, I want to solemnly undertake right now that they're going to hear something very different than they've heard from this member before in this Assembly. In fact, I challenge the member to rise as soon as this sounds familiar, because this is new material.

The problem with section 19 is this. We've left this incredible latitude to the minister. We've left so much to be determined by agreements, things that aren't part of the legislation, where there are no standards. There's no oversight. Yet here what we're going to do is take this extraordinary step, an extraordinary step in terms of saying that somebody cannot be sued, Mr. Chairman, if they can satisfy two conditions. The one condition is that they have to have acted "in good faith," the second condition being "while carrying out duties or exercising powers under this or any other enactment."

Now, let me do this in this fashion: firstly dealing with the element of good faith. Right now the potential exists to sue somebody working in this . . . [interjections]

THE CHAIRMAN: Order.

AN HON. MEMBER: I'm leaving. It was him. I didn't say anything.

THE CHAIRMAN: I wasn't saying it was you. It was the guy behind you.

Calgary-Buffalo.

MR. DICKSON: That's great. We're now down to the serious listeners, Mr. Chairman. Thanks for the admonition.

The concern firstly is this: a test of good faith. Now, if somebody suggests that this is a common practice – and the lawyers in this Assembly like the distinguished former Minister of Justice and Attorney General, current Minister of Federal and Intergovernmental Affairs and the Minister of Justice will tell their colleagues that there's a whole range of causes of action that exists if somebody who is providing care to a child commits a tort.

I was just trying to make a list of the kinds of reasons that you might want to sue somebody who is discharging a function relative to children. It may be negligence, negligence being where a particular standard of care was owed to a child in care and that standard of care was not met. If that standard of care was breached, there would be an action for negligence. You might have an action in occupier's liability if the caregiver didn't provide a safe place and a child was hurt as a result. You might have a breach of a fiduciary responsibility. That would be a cause of action that a child would have potentially against one of these people who's going to be protected in section 19. It might be an assault. A child may be assaulted. There may be a battery committed towards a child. There may be some other instance of neglect.

Now, why oh why would we say in this Legislature that one of the key priorities we have – and this is reflected as a priority because it's spelled out in section 19 – is protecting somebody who's charged with looking after a child in care. Why would we want to protect that person if they were negligent? Why would we want to protect that person if they didn't meet an occupier's liability standard? Why would we want to protect that person if they committed an assault against a child? Well, that in effect is what happens, because of this notion of "in good faith." This is not some kind of a legal standard. Good faith is entirely different than a standard of negligence.

So the reason why the amendment ought to be accepted and section 19 expunged absolutely from this Bill is that it incorporates a vastly lower standard of care. It means that you can have somebody who is negligent. You may have a child care worker who would be guilty either through occupier's liability or a breach of a fiduciary duty who can't be sued. Why can't they be sued? Because somebody finds that they may have acted in good faith. Well, when we're talking about children, it's not enough for some caregiver to say, "Ah, a child's been hurt." Maybe a child's death has ensued because somebody was negligent, but they acted in good faith.

There are all kinds of decisions in the courts in this province where somebody who may have acted in good faith was still found to be negligent. Negligent isn't the same thing as bad faith. They're different standards. So why in section 19 would we incorporate the lowest possible standard when we're talking about children in care in the province of Alberta? Why would we say that those children don't count? Because that's what section 19 in effect does.

Mr. Chairman, it's an embarrassment if this Bill passes and all that a caregiver has to give – just follow this scenario through. You have a child who's in a foster home who dies because the caregiver was negligent, and the caregiver can come along after the fact and say: "I acted in good faith. I didn't mean to hurt the child." Because that's in effect what good faith means. "I was absolutely negligent; I breached the duty of care I owed this child, but I didn't mean to do it." That excuse allows that person to walk out of a lawsuit. It allows that person to walk away, shrug their shoulders and say: "A child may be dead in the province of Alberta. A child was in care of the province of Alberta, but it doesn't matter because I didn't mean to do it." I can't imagine that any minister or any legislator would (a) bring such a piece of legislation forward and (b) expect other members to support it.

10:10

What greater and more important duty do we owe than the duty to children in care of the province of Alberta? That means that instead of trying to find the very lowest standard we could possibly dream of, we should be trying to set the highest possible standard. How many more reports do we have to see in this province of children in care who hang themselves? How many more reports do we have to see of adolescent children moving from foster home to foster home who fall between the cracks, take their own lives? At least now there's a potential that they would have the remedies available under the tort law, under the laws of negligence, the laws of occupier's liability, but if this Act passes

with section 19 as it is, what it means is that there are all kinds of children who may be hurt and they have no claim against the caregiver. We've just dropped the standard from negligence to whether they deliberately intended to hurt the child. That's not good enough, Mr. Chairman.

Now, the second problem with section 19 and the reason why the amendment's a solid one and ought to be supported is that if you look at the second part, it provides that if the person is "carrying out duties or exercising powers under this or any other enactment" – well, what are the duties that are spelled out here? You know, one can look through this entire Act, and it's vague. It's loose. It's subjective. It's open to interpretation. It's open to construction of a whole range of people.

I hope the Minister of Justice joins this debate, Mr. Chairman, because the Minister of Justice understands the difference between good faith and a standard of care which creates the offence of negligence or the liability of negligence. In fact, I'd challenge the Minister of Justice this evening. I challenge the Minister of Justice to say if he disagrees that talking about good faith does not import a lower standard, as I've suggested, than it does for negligence. I'd like the hon. Minister of Justice, a Queen's Counsel, a gentleman with a distinguished career as a practising lawyer – and the hon. Minister of Justice is a rarity in this House. He's one of the people with a law degree who's actually practised law and had real clients.

Mr. Chairman, I'm sure that the Minister of Justice understands what the duty of care is in the tort of negligence. I'm confident the Minister of Justice can tell his colleagues what occupier's liability is about, and I'm confident he can talk about assault and battery. I think he can tell them that somebody may have acted in good faith and still be negligent. I think he can tell them that somebody may have acted in good faith and still be liable to a judgment based on occupier's liability. I think he could say that somebody may have acted in good faith and still be subject to an action and ultimately a judgment against them for nuisance because they allowed some unsafe condition to exist where children were present.

If the Minister of Justice accepts my commentary on the state of tort law and the duty of care, then that's fine. He need say nothing, and we can move on from there, Mr. Chairman. If he disagrees – this is such an important element in this Bill that I don't want any member to be under any confusion. [interjection] The Government House Leader may be a little suspicious. He may think that I'm gilding the lily, that I'm resorting to a little hyperbole, a little exaggeration trying to make the point. If he does, Mr. Chairman, on the amendment, then I expect his colleague the Minister of Justice or the Minister of Federal and Intergovernmental Affairs can remedy that.

Those are my concerns. If I can just summarize, "good faith" imports a different test and a lower test than currently exists, and finally, "carrying out duties" is too broad and open-ended. Those are the comments I wanted to make, but I hope there are other members in this Assembly who are concerned about protecting children in care and will make their views known before we vote on this critically important amendment.

Thanks very much.

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

MR. CHADI: Thank you, Mr. Chairman. I once again feel compelled to speak to an amendment on this Bill after listening to the Member for Calgary-Buffalo speaking to the amendment. The amendment seeks to strike out section 19 from the existing Bill. Section 19 talks about:

> No action for damages may be commenced against a member of an Authority for anything done or not done by that person in good faith while carrying out duties or exercising powers under this or any other enactment.

Now, Mr. Chairman, I have heard the mover of this amendment speak. I have heard members from this side of the House speak. I haven't heard anybody from the government side speak to this amendment at all. I've heard some reasonable arguments from the Member for Calgary-Buffalo and the Member for Edmonton-Centre. It seems reasonable to me that excluding or striking out this section 19 from this Act would make some good sense. I'm curious to know, if the government is going to vote against this amendment, why it is that they would vote against this amendment. It seems to me that any member of an authority that would carry out their duties in good faith or otherwise ought not to be excluded from any liability. It seems to me that if I as an individual out in the workplace carried out my duties in good faith, no matter what it was that I had done, albeit in good faith, I'm still open to all sorts of liability. I mean, that's what we have liability insurance for.

[Mr. Clegg in the Chair]

I would think that the Member for Cypress-Medicine Hat should agree with this amendment, and he should agree wholeheartedly. I would think that the Member for Red Deer-South would agree with this. There ought to be no person carrying on their duties, whether in good faith or otherwise, being a member of an authority put together by a certain Act of this Legislature that is exempt from being sued, that is exempt from an action and for the recovery of damages by an individual who has a right to those damages. Mr. Chairman, I would like to hear from the government side, other than just a flat-out "No" when the question is called, as to why this would not be reasonable. We heard the Member for Calgary-Buffalo challenge the Minister of Justice to speak on this and tell us why he would not be in favour of such an amendment. I would have liked to have heard from the minister of social services himself as to why an exclusion like this does not make any sense to him.

Mr. Chairman, with those comments I will take my seat, and I would like to think that the Minister of Justice is going to answer these questions. Thank you.

[Motion on amendment A7 lost]

THE DEPUTY CHAIRMAN: Amendment A8. Hon. Member for Edmonton-Highlands-Beverly.

10:20

MS HANSON: Yes. Thank you, Mr. Chairman. This is our last amendment. Amendment 8 is for section 20. The amendment is in two parts. In section 20(1) the Lieutenant Governor in Council "shall" make regulations prescribing programs for the purposes of the section, respecting the manner in which members of an authority are nominated, respecting eligibility requirements for members, the investment powers of the authority, and the winding up of the affairs of the authority. Those are all pretty important things, and I would think that rather than "may," it should be "shall."

The second part of this amendment is that it requires the proposed copy of the regulations to be forwarded to the Standing Committee on Law and Regulations. You've heard that several

times this week. The committee will ensure that the regulations are consistent with the delegated authority, are necessarily incidental to the Act's purpose, and are reasonable in terms of achieving the purposes of this Act.

AN HON. MEMBER: Alice, you promised you wouldn't.

MS HANSON: No, I didn't.
Thank you.

MR. DICKSON: Mr. Chairman, just a couple of comments with respect to this amendment. The first one is the provision of putting in the mandatory "shall" rather than the permissive "may." Once again, we've talked about how empty and how vague and how general this Bill is and about how little specificity there is, how little direction there is. I would ask those people opposed to this particular amendment to tell us: why is it, why would it be that we would want to say that the manner in which prospective members of an authority are nominated should not be in the regulations? "Eligibility requirements for members of an authority." If it's not in the regulations, where is this set out? How can Albertans access it? You know, we don't know what sorts of notoriety will attach to those decisions.

"Respecting the winding-up of the affairs of an Authority" or "respecting the investment powers of an Authority": why wouldn't we make that mandatory? My own preference would be that it not appear in the regulations at all but be part of the enabling statute, but failing that, at least it ought to be in regulation. Section 20 as it now stands: in effect the result is that these things may be in regulations, but they may also be in just some kind of departmental policy. It may be that the minister one day thinks that we're going to wind up an authority in one fashion and tomorrow wakes up in a different frame of mind and decides that we're going to have a whole different formula for winding up an authority. Why wouldn't we spell that out in regulations? Why wouldn't we make sure it's constant, it's consistent, and it applies across the province? I think that would be really important.

"Investment powers of an Authority." If the government refuses this amendment and refuses to specify by regulation what the investment powers of an authority would be, that surely could only be for one reason, and that would be that they're going to confer different investment powers on different authorities. So we have 17 authorities. There's one in Peace River, and we contrast that with the one in the Lethbridge area. Maybe one can invest in one kind of security and the other cannot. What would be the possible sense in that?

"Eligibility requirements for members of an Authority." Why would it be, Mr. Chairman, that to be an authority member in Lacombe, you might have to meet one kind of standard, but to be an authority member in Drumheller or Pincher Creek, it would be a different standard altogether? That's what would happen. That would be the result if this amendment is not accepted. If we don't make this revision to Bill 26, we end up with a quilt. We end up with a whole series of different kinds of regulations that apply in different parts of the province. I thought that what the minister would be wanting is consistency. I say through you, Mr. Chairman, to the Minister of Family and Social Services, why would you want one set of rules for the authority in northern Alberta and one in downtown Calgary? Why would that be, hon. minister? In Grande Prairie the authority may have a much higher kind of standard for those people that can serve on the board than people in downtown Calgary. Now, would the member for Grande Prairie think that that's fair or appropriate? I doubt it. The hon. Minister of Health: would she expect that in her part of eastern Alberta there should be a different kind of standard, a different set of rules that apply to people who are going to be on the authority than the people in Rocky Mountain House? That doesn't make sense.

Are we not making laws that apply generally throughout the province of Alberta? If we are – and I see the Member for Rocky Mountain House, the esteemed Minister of Environmental Protection. He's got a keen interest in making sure that the people in his part of Alberta aren't penalized just because they happen to live there. Why should people in Rocky Mountain House or in Caroline or any of those beautiful spots in central Alberta be penalized because of where they live? Shouldn't they be entitled to the same kind of standards, the same kind of rules as people in downtown Calgary?

Now, it's interesting, Mr. Chairman. The Minister of Environmental Protection, who usually shows us those kinds of incisive, analytical abilities when we deal with a Bill, has a contrary view. He seems to think that even though this isn't in regulation, somehow we're going to have consistent treatment provincewide. Well, how can that be, Mr. Minister? I challenge the Minister of Environmental Protection to join the debate on this important amendment, tell us how we can read something into section 20 that's not there. [interjection] The Minister of Family and Social Services is giving an assurance to his seatmate the Minister of Environmental Protection. Now, this works really well, Mr. Chairman. This is what child care standards have come to in Alberta: if you're an MLA and you happen to be close enough that you can whisper to the Minister of Family and Social Services, you can maybe cut some kind of a bargain that the members of your authority are not going to be held to any higher standard than the minister and that MLA may agree to. Well, what about people in Pincher Creek? The people in Pincher Creek don't have an MLA that happens to sit within earshot of the Minister of Family and Social Services. It seems to me that they're going to be disadvantaged right from the get go.

AN HON. MEMBER: You've been there, Mike. Mike went down to Pincher Creek.

MR. DICKSON: The minister has been to Pincher Creek. Well, that begs the question as to whether that hardworking MLA for Pincher Creek-Macleod was able to sit down with the minister. Was he able to extract some kind of a commitment that it would be the same standard that applies in Pincher Creek to appoint these people as it would in Peace River? That's the question. [interjection] Mr. Chairman, the government Whip thinks it's a waste of time to be concerned about ensuring that children's services meet a minimum standard and that that standard is set provincewide. [interjection] He's getting more exercised, but he still is not addressing the issue and the problem with the amendment.

The amendment is a positive one. Now, the balance of the amendment – this would be the second part – deals with that familiar issue which has been raised many times before. It would simply be this: that the Standing Committee on Law and Regulations should look at the regulations in draft form, look at them before they become law, when they're proposed, have an opportunity to determine whether they're consistent with the very expansive power provided for in the mother statute, the enabling statute, look to determine whether the regulations are necessarily

incidental to the purpose of the Act, and then determine whether the proposed regulation is reasonable in terms of efficiently achieving the objectives of the Act. We've talked about this many times. This goes back to the Zander committee report, a select committee of the Legislative Assembly. It came back with a whole series of recommendations. The government of the day accepted those parts of the Zander committee recommendations that dealt with laws and regulations. What we then proceeded to have was a very selective abdication, a very selective ignoring of the other key recommendation, which was to do what's provided for here.

10:30

I'm not going to go on longer and talk about my concern that in almost every other parliamentary system anybody could think of, they have an oversight committee that reviews laws and regulations. Here's a new wrinkle: what statutes do we deal with where the issue is more important than when it comes to ensuring minimum standards for the protection of children in care of the province? As I said before, this may be the highest responsibility. We owe these children the highest obligation of all.

This would be a way of ensuring that just in case the Minister of Family and Social Services lets his guard down, just in case he happens to not bring his usual high level of due diligence to review draft regulations, just in case somebody in his department gets carried away and puts together a poorly drafted regulation, we'd have a chance with an all-party committee with keen eyes like those of the Member for Edmonton-Centre or the Member for Edmonton-Highlands-Beverly. If those people were on that committee, they'd be able to identify maybe a regulation that was weak, a regulation that was excessive, to appeal to the heart of the Member for Peace River a regulation that might be duplicitous or redundant or in any other sense unnecessary. We'd be able to do that if this amendment passed.

I'd ask members to consider that this is not simply the same old Law and Regulations amendment. There's a different wrinkle. The different wrinkle is set out in the first part, which means that regulations must be made dealing with these other things. This is, I think, a bit innovative on the part of my colleague for Edmonton-Highlands-Beverly, and I think it represents a very positive addition to the standard amendment that we put forward at this time.

The other point that should be made is that if one looks at subsection (5) of the amendment, the minister still is in the driver's seat. All the Standing Committee on Law and Regulations can do is make a recommendation to the minister. He may say: I hear the recommendation, I've considered it carefully, and I reject it. Well, he's the minister, and we can hold him to account in this place. But at least we would be there assisting the minister, trying to make regulations that advantage Alberta children. That's something that cannot occur under the Bill as it currently stands, Mr. Chairman.

Those are the points I wanted to make with respect to this amendment. It's important. I just say again that we're dealing with children and the lives of children. This is a case where the highest possible standards should apply. This amendment helps to reinforce a higher standard. I'd think the Minister of Family and Social Services would be happy to accept this.

You know, it seems to me that it was almost a year ago that the Minister of Labour said informally, maybe in a relaxed moment, that he thought he might be prepared to consider some opposition participation in a review of regulations for his department. I remember at the time challenging his cabinet colleagues that they might try and meet the same standard: the Provincial Treasurer perhaps, the Minister of Health, any of those other ministers who are secure in their portfolios and aren't concerned about having people looking at their handiwork. But, alas, nobody accepted that challenge. In fact, the Minister of Labour I think still hasn't permitted opposition members to sit in on his review of regulations. I stand to be corrected if in fact that's happened.

This amendment made sense to the Zander committee because in effect this is what they wanted to do. It makes sense in almost every other parliamentary jurisdiction one can think of anywhere in the world: New Zealand, Australia federally, Australia at the state level. New South Wales in particular does this. It makes sense at the federal government level.

Mr. Chairman, anticipating the bell, I think I've pretty well exhausted the comments and perhaps even the listeners on this particular amendment, and I'll take my seat. Perhaps somebody else can join the debate.

Thanks, Mr. Chairman.

MR. VAN BINSBERGEN: Mr. Chairman, I would like to say just a few things. I don't want members on the government side to think that my silence indicates that I disagree with this amendment. I support it wholeheartedly. I just want to get that on the record, and so on.

Also, Mr. Chairman, I would like to state once again how disappointed I am that we've presented here seven very, very good amendments, none of which have been spoken to by anyone on the government side, one of which without any debate on that side has in fact been accepted. Now, I said hallelujah at the time. I was so pleasantly surprised and impressed that it actually happened, but that's one out of seven amendments. Every single one of those amendments would have enforced and made this piece of legislation a lot stronger.

Mr. Chairman, I have a few more things to say here, but very few indeed. That amendment – well, it was an earlier amendment dealing with section 7; that's the one that was accepted, where we were able to get "may" changed into "shall." Apparently that is not necessary. It's not found to be necessary by members on the government side in this case. At least I would like to hear from the minister responsible as to why he does not think that these two "mays" in fact ought to be changed into "shall." The amazing thing is that without the "shall" it is possible for the minister to not make any regulations respecting the standards to be followed, to be adhered to by the authorities that deal with our children. Conceivably he could simply say, "I don't feel like making any standards; you know, you just do your own thing, guys." I find that totally unacceptable. I'm amazed, in fact, that the minister would dare to let the authorities dangle like that, keep them dangling without necessarily giving them the guidance that they so badly need.

I think we're all aware of the tremendous amount of work that's being done in all the regions by thousands and thousands of people who are involved in trying to grapple with the problem of how should children's services be provided locally? [interjection] Very little guidance is given, very little guidance. Mr. Minister, I'm glad you heard my words. I've attended a few of these meetings, and I've been very much surprised that these people are still doing it, but in the process they're burning out. The question is: what happens then? You are not making it mandatory for the minister to actually set the standards. I don't buy that; I don't accept it. Therefore, I strongly urge everybody – everybody – in

this House to vote in favour of this particular amendment.

Thank you.

[Motion on amendment A8 lost]

[The clauses of Bill 26 as amended agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed, if any?

SOME HON. MEMBERS: No.

THE DEPUTY CHAIRMAN: Carried.

10:40

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

[Motion carried]

[Mr. Clegg in the Chair]

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

MR. HERARD: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration certain Bills and reports Bill 26 and reports progress on Bill 24. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

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

SOME HON. MEMBERS: Aye.

THE ACTING SPEAKER: Opposed, if any, please say no.

SOME HON. MEMBERS: No.

THE ACTING SPEAKER: Carried.

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