Legislative Assembly of Alberta

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head: Committee of the Whole

[Mr. Tannas in the Chair]

THE CHAIRMAN: I'll call the committee to order. For the benefit of those in the gallery, I'd indicate that Committee of the Whole is a much less formal part of the Assembly. The rules are somewhat relaxed, which drives the Chairman sometimes to distraction. Nevertheless, members are actually allowed to move from one place to another without making great amounts of noise. We try and establish and maintain a convention that only one member may be standing and talking at a time. Hon. members are allowed a little wider variety of refreshments. In addition to the regular water they're allowed coffee, hot chocolate, and a variety of juices here in the Chamber.

It is not just this relaxed appearance, but also the rules are somewhat relaxed in that hon. members may speak on a topic for an almost unlimited amount of time to a maximum of 20 minutes. They cannot succeed themselves, but if somebody else gets up, it can go on, as members will tell you, for considerable periods of time should one or the other side of the House decide that they want to debate.

May we revert to the brief introduction of guests?

HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed? Carried.

The hon. Member for Calgary-Shaw.

head: Introduction of Guests

MR. HAVELOCK: Yes. Thank you, Mr. Chairman. I just wanted to indicate that tonight I had the pleasure of spending time with two of my own constituents, Jonathan and Vanessa Wong, at the Forum for Young Albertans. I really enjoyed it. I just wanted to indicate also that I spent a lot of time with one of my colleague's students, Anne Marie, from the constituency of Calgary-Egmont. I spent time with students from Peace River, Vegreville-Viking, and a number of other constituencies and really enjoyed it. I think that if this is what the future holds for the Legislature, then we're in good shape. [interjection] What would you like? Oh, I'd like to ask that all members of the House please welcome them.

Bill 23
Condominium Property Amendment Act, 1996

THE CHAIRMAN: Without further ado, we'd call on Calgary-Bow to begin this evening's deliberations on Bill 23.

MRS. LAING: Thank you, Mr. Chairman. I'm very pleased to table amendments to Bill 23, the Condominium Property Amendment Act, 1996. I'd just like to do a little bit of refreshing of memories. The Condominium Property Act was first enacted in 1966. The last time it underwent major amendments was in 1978. The changes are now required to keep the legislation relevant to the current needs.

There has been considerable pressure over the past few years to amend the Act. Stakeholders have been advised each year that the legislation is on the next agenda, and then something happens and it doesn't get there. So they are very interested in having this come forward and proceed.

Extensive stakeholder consultation has occurred in the last 12 months. A discussion paper was circulated to various interested parties, and over 75 written submissions were received in response, some of them very in-depth analyses of the legislation. There have been two public forums that were held, in Calgary and Edmonton, in the spring of this year.

There have been several meetings to develop a complete list of detailed proposals for amending the legislation. The list of detailed recommendations has served as the basis for discussion with select stakeholders. Meetings with representatives of local governments and registries were held during the first week of October to obtain feedback on the proposals that may impact these areas, and during mid-October meetings were held with a select group of stakeholders – a few of them are the Canadian Condominium Institute, the Alberta Real Estate Association, Alberta Home Builders' Association, Mortgage Brokers Association of Alberta, the Alberta Urban Municipalities Association, the Alberta Association of Municipal Districts and Counties, and the Canadian Bankers' Association – to obtain comments on detailed proposals outlined in the legislation discussion paper.

The stakeholder comments have been assessed and incorporated into a list of proposed amendments. This is what you see before you today.

The answers to questions from second reading were filed previously in the Assembly.

I would like to move that we take it as a block rather than individually, if the Chamber assents.

THE CHAIRMAN: Hon. members of the committee?

SOME HON. MEMBERS: Agreed.

SOME HON. MEMBERS: No.

THE CHAIRMAN: The hon. Member for Calgary-Buffalo on how we should proceed.

MR. DICKSON: On the process, Mr. Chairman, my concern is that in the package there's a number of disparate elements. A number of them are noncontentious and I expect would be readily supported, but there are some that are clearly problematic. I think we can move with some dispatch if they're broken out individually rather than treated as a whole block.

MRS. BLACK: Mr. Chairman, I believe that the critic from the opposition has worked with the hon. Member for Calgary-Bow as to how these amendments would be presented. It was clearly our understanding that they would be presented in one package, and that was the understanding that was worked out between both sides of the House so that these could be dealt with effectively. Now I'm absolutely shocked that the hon. Member for Calgary-Buffalo would try and come in at the last minute and change this relationship that has developed in good co-operation between both sides of the House.

So I'd ask hon. members on the opposite side to please let their critic of this Bill proceed with the relationship.

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

MRS. ABDURAHMAN: Thank you, Mr. Chairman. We were doing exceptionally well until the Minister of Energy stood up and started putting words in my mouth. I certainly respect very much the mover of this Bill, who had the courtesy to share the government amendments with me this afternoon, which gave me as the critic for this Bill an opportunity to peruse them, but I think the member would agree that we didn't discuss how they were going to be dealt with in this House.

I'll be quite frank with you. My level of comfort probably was, because I've had time to peruse them, to do them in a block, but I think you have to recognize, to be truly democratic, that my colleagues didn't have the opportunity over the supper hour to go over the amendments to the degree that I did. I will respect their wishes at this time and ask for them to be dealt with in as expeditious a manner as we possibly can because I do believe they strengthen the Bill, from the quick perusal that I had over the supper hour.

THE CHAIRMAN: Okay. The Chair's function in this part is to try and get some kind of agreement. It would appear that if we go by the capital letters, we have 29 amendments, which would take us from now till some considerable time hence. If there are issues that are contentious, perhaps we can divide them, and if we went from A to I don't care what and have that as A1, A2, A3, we might be able to divide the issues into two or three. In any event the Chair is the servant of the committee as opposed to its dictator.

MRS. LAING: Mr. Chairman, these are known as technical amendments. They have had a lot of perusal. Even the law review society, I believe, has been involved. So there has been a lot of review of them. They've been at many public meetings, and I know that many of the members opposite have had the opportunity to have input through people appearing at some of the forums. I feel that we could go ahead. As we come to ones that are contentious, we could certainly discuss those and give the explanation, and I think we would be able to proceed as a block.

I'd like to move that they go as a block.

THE CHAIRMAN: The hon. Member for Calgary-Buffalo on Calgary-Bow's proposal.

MR. DICKSON: Mr. Chairman, the reason I had raised issue with it before is that I'm looking at a fairly voluminous presentation put together by the Calgary Home Builders Association, and I didn't hear that that was one of the organizations that had been consulted by the member. I'm simply anxious that on a couple of the amendments that are contentious, there be the flexibility and the ability to do what the Member for Clover Bar-Fort Saskatchewan has suggested.

THE CHAIRMAN: Could you identify those, hon. member?

8:10

MR. DICKSON: A particular one would be amendment D, for one. I wouldn't put this forward on behalf of my caucus. The Member for Clover Bar-Fort Saskatchewan may have some specific ones that she may have a concern with. I'm just identifying the ones that appear to me to be of some difficulty. So D would be the key one, M as well, and P also is one that may pose some difficulty, as well as R. I think, just speaking for myself, those are the ones that I have some particular concern with.

THE CHAIRMAN: The hon. Member for Calgary-Bow would like to make her motion again, please, so that all may hear.

MRS. LAING: Mr. Chairman, I would like to move that we treat these amendments as a block.

THE CHAIRMAN: Okay. The only remaining question before we vote on that issue is that occasionally members who are proposing a series of amendments will ask us to discuss them all and vote somehow in a separation. Is the motion to discuss them as a block and vote on them as a block, hon. member? [interjections] Let the hon. Member for Calgary-Bow answer that.

MRS. LAING: Yes, it would be. I certainly feel that we could have an explanation if there was a particular one, as the Member for Calgary-Buffalo has mentioned, that was a concern. We could certainly have an explanation on that one rather than go through A, B, C, and D. If you wish, I could give a quick overview of the amendments. Many of them are just the change of a word or two to clarify the speech in the amendment, you know. So a lot of them are very minor things.

THE CHAIRMAN: Hon. Member for Calgary-Buffalo, do you hear that? Would that be agreeable? She'd go over all of them, and then we can indicate whether we would deal with them voting in a block, discussing them in a block, or if you want to pull out those four that you mentioned.

MR. DICKSON: Mr. Chairman, I'd prefer to defer to my colleague the Member for Clover Bar-Fort Saskatchewan, who in fact is critic on the matter.

THE CHAIRMAN: Okay. Hon. Member for Clover Bar-Fort Saskatchewan, we have a motion on the floor, and the hon. member making the motion has proposed that she might cover all of them, and then with the caveats that have been mentioned, we might decide how we wish to proceed.

MRS. ABDURAHMAN: Mr. Chairman, my sense of dealing with these amendments was that there certainly can be agreement with a certain number of these amendments. In fact, the Member for Calgary-Buffalo has identified some amendments that I have identified would be problematic. So I would certainly be asking for the member to speak to those amendments and separate them out when we come to vote, and I would hope that would be agreeable. There may be some amendments forthcoming, because we also have some amendments.

THE CHAIRMAN: The hon. member just has mentioned two different kinds of amendments. One is a subamendment to existing amendments, and the other one would be amendments. They haven't been moved yet, so it gets hard to discuss them. You know, the subamendments can be made to the amendments, but amendments that stand alone would have to be made after these amendments are dealt with. Right?

MRS. ABDURAHMAN: Well, my understanding is that they are all being moved, we will debate them, and then we will look at how we're going to vote on them. Some will be in a block and some will be by themselves, will stand alone.

MRS. LAING: My understanding was that we could vote on them

as a block, but before we vote, naturally there's time to question and debate and explain, and then you would have the vote at the end.

THE CHAIRMAN: That's one of the happy points of committee stage, that the committee may deal with a series of amendments in any one of a number of ways. What I'm trying to do is get you to agree on how we may proceed. I still have several members standing who wish to speak to how we may proceed. So we're still on the motion. Having listened to Calgary-Bow, I will take Sherwood Park and then Peace River.

The hon. Member for Sherwood Park on the motion.

MR. COLLINGWOOD: Thank you for the opportunity. On the motion indeed, Mr. Chairman, my understanding of the comments from Calgary-Bow – and I think we're trying to work to resolution – is that we can enter into debate in Committee of the Whole without having moved the amendment prior to, but nothing precludes us from talking about the amendments as they are about to be moved so that we can deal with a number of the issues as they're raised.

If I understand correctly, Mr. Chairman, the amendments have not yet been moved. We have, then, the opportunity to enter into debate on the Bill generally speaking in Committee of the Whole, and after having had some discussion and some debate about what is and what is not agreeable amongst the members, then the motion can be moved in whatever form the Member for Calgary-Bow chooses to move the amendments at that point in time.

So to move forward, Mr. Chairman, we can now simply enter into a debate on the Bill itself, deal with the proposed amendments, and until they are moved, we're not then in a position of voting as a block, if that's not the way the amendments are moved by the Member for Calgary-Bow. So I offer that as a solution.

THE CHAIRMAN: The hon. Member for Peace River.

MR. FRIEDEL: Yes, Mr. Chairman. I believe that the member has in fact moved the amendments, and she moved that they be introduced and voted as a block. I believe that's something we have to vote on, and in the event that anyone wants to sort one of the amendments out from the pack, it would be in order to have a motion at that time to have it dealt with separately by excluding it or extracting it. In the meantime, I believe we're voting on a motion that says we deal with them as a block, including voting.

THE CHAIRMAN: I think we can go back and forth here, not unlike a table tennis match. We have a motion on the floor. The motion is that we consider them all as a block. We have some suggestions that we separate some of them out first, but we do have a motion on the floor, and we'll have to deal with that motion. If it fails, then we've got other motions that can come forward. If it doesn't, then we're there.

So the hon. Member for Calgary-Bow has moved that we consider all of the amendments as provided by the hon. member as one item. Now, we're not voting on the amendments; we're voting on the procedure, that we discuss them all and vote for them all at one time. That's the question before us. [interjection] I think we've had 20 minutes almost. [interjection] Fort McMurray, one minute.

MR. GERMAIN: Sir, we're responding to this only because of your kind invitation, allowing the House to set this procedure this time. My understanding was that the mover of the amendment gets to call the shots on how they're dealt with. We've always dealt with it that way. I'm happy that you're giving us this democratic process, but I would not want to set a precedent forcing other amendments to be dealt with in block when they are intended to be dealt with singularly.

8:20

THE CHAIRMAN: Well, thank you very much for that particular interpretation. That's not the understanding of the Chair or of the Table officers. The committee has the right to decide how it will deal with the amendments. It is true that the proposer, or the mover, of a series of amendments may make the suggestions, and if that's okay with everybody, then we'll proceed that way. We have now spent 20 minutes discussing the process, and we haven't got there yet.

We have before us the proposal by the mover of the Bill and the proposer of the amendments that we proceed with the amendments as one block in terms of discussion – and it can range back and forth – and that when we vote upon them, we vote upon them as one, which will then be amendment A1. That is the motion that is before us.

[Motion carried]

MRS. LAING: Mr. Chairman, would I make that motion now, then, to go as a block and then make the explanation, or is it done?

THE CHAIRMAN: We're going to discuss them all and vote on them as a block, as per your motion.

MRS. LAING: Thank you.

Looking at A, the definition of municipal authority, this is a drafting point that has been put in to clarify the situation of towns such as Banff, which falls within the scope of a municipal authority.

The second one of that part is a definition of arm's length. This is a minor amendment. Comments on the Bill indicate that from a legal standpoint the definition should refer to the relationship between the two parties, given how the term is used in other legislation. We incorporated the suggestion and note that the wording proposed is very similar to the reference to arm's-length transaction in other legislations.

Amendment B. We are deleting this. This is because the land titles officials and the chair of the legislative review committee of the Canadian Bar Association advised that there are technical and implementation problems with this proposal.

Amendment C. Clause (f.3) should be moved to section 8 of the legislation, where a certificate is already required. There is a list in that section that includes several professional people who are qualified to give certificates, and it was felt that it made a smoother transition to have them all in that one section. So it's been moved to section 8.

Amendment D. The technical amendment will provide that all the doors and windows on the exterior wall of a unit will form part of the common property unless otherwise stipulated in the condominium plan. This technical amendment addresses the issue of doors and windows that are located on the exterior wall of a unit but are not located on the exterior of the building; for example, doors to units located in the interior hallways in high-rise developments. Comments on this recommend that the current proposal be broadened.

Amendment E is a technical amendment that incorporates the original amendment. It also includes a requirement for a certificate regarding post-tensioned cables. This again is a technical amendment. There is no substantive change.

F is for clarification. This technical amendment will change the wording to require an "occupancy permit or permission in writing to occupy . . . that is issued or given pursuant to the . . . Safety Codes Act." So it brings it into line with the Safety Codes Act. This is a drafting point.

Amendment G. The technical amendment provides clearer wording of the same principle and deletes a redundant clause. Again, this was a drafting point to make it clearer.

H is a minor change. The technical amendment refers to common property that may be located in or "comprise a unit" or "any part of a unit". Again, this is to provide better clarification.

I is a minor amendment which replaces "Subject to" with the words "In accordance with", and again this is a technical amendment to clarify.

J is the technical amendment which will add a subsection stating that no conflict of interest exists "by virtue of that member of the board owning a unit." Therefore, they can sit on the board of the condominium group.

K is a technical amendment which maintains the annual reporting requirement but does not require the distribution to occur at the annual general meeting. For instance, in the annual general meeting you would want to have the financial statements for the past year, but you wouldn't necessarily have to have the budget ready for the coming year. So this would be done in a way to accommodate the normal way of running things.

Amendment L. The technical amendment replaces "Meetings of the board" with "All meetings of the board and all". Again, that's a clarification.

M is a technical amendment that includes an additional subsection which states that any sanction imposed "must be reasonable". If we're going to establish bylaws and sanctions for failure to comply with the bylaws, again it has to be a reasonable sanction. So this makes it very clear.

Amendment N. The technical amendment makes it clear that the court proceeding may include a claim to collect a monetary sanction or a claim for any damages. The proposed subsection (3)(a) replaces "proper" with "appropriate", and again that's a clarification.

O is the technical amendment that provides that the reserve fund can be used for capital improvement provided there are sufficient funds for any expected repair costs and the capital improvements have been approved by special resolution of the owners. If you remember from the Bill, "special resolution" means that 75 percent of the owners have to agree with that, and that gives some protection for that reserve fund.

Amendment P. The technical amendment will broaden this concept to include the priority for the outstanding fees when the condominium unit is sold at a public auction for tax arrears. So it applies to anything that's sold at an auction or for tax arrears. This is a minor amendment. It provides greater consistency. The technical amendment also responds to concerns raised regarding the priority for condominium fees.

Amendment Q. The technical amendment prohibits the corporation from charging interest that exceeds the amount authorized under the Judgment Interest Act for actions in debt. So this gives some protection that it's reasonable and it can't go over that Judgment Interest Act.

Amendment R. The technical amendment replaces the phrase takes "proceedings to collect" with takes "any steps to collect". This is because "proceedings" may be misinterpreted to mean strictly court proceedings.

THE CHAIRMAN: It's getting harder and harder to hear the hon. member give her explanations.

MRS. LAING: I'll repeat amendment R, then, because it was a little noisy.

Amendment R. The technical amendment replaces the phrase takes "proceedings to collect" with takes "any steps to collect". This was because people felt that using the word "proceedings" may be misinterpreted to mean strictly a court proceeding, and it isn't that intention.

Amendment S. The technical amendment, again, is a drafting change. It is outlined in two subsections instead of one. This indicates that there was a redundancy. The section could be interpreted as requiring every person in receipt of money to pay that money into a separate account. That wasn't the intention, and this clarifies what the intention is.

Amendment T. The technical amendment replaces "post tension" with "post tensioned". Apparently this is a more correct term.

The second part. The technical amendment will clarify the situation in the first year of operation, when a condominium will not have financial statements. So it's for the original first year of operations.

Part 3, clause (e). The technical amendments to clause (e) are of a drafting nature. Instead of "reserve fund" the term "capital replacement reserve fund" should be used. Also, the requirement to disclose structural deficiencies clearly states that it is only for those deficiencies "that the corporation has knowledge of at the time of the request."

Amendment U. The technical amendment further describes the type of records that can be inspected; i.e., "records" is replaced with "records pertaining to the management or administration." So it gives some protection to the management from having other things dragged in that weren't necessary.

Amendment V. The technical amendment makes it clear that the corporation must also place and maintain insurance for its own liability. The amendment responds to concerns raised that there was no requirement for liability insurance for the corporation. The intention was to include this requirement, and the technical amendment makes it clear.

Amendment W. This deletes section 39(2). There is already a general provision in the current legislation that allows the corporation to collect a reasonable fee to compensate for any expenses in providing documents required under the Act. This was a fee for an insurance policy.

Amendments X, Y, and Z amend sections 44 to 47, on pages 26 to 29. This is a technical amendment that changes the reference from persons retaining the unit and any invitees to anyone "in possession of" the unit. This makes it more consistent with the Act.

Amendment AA, section 60, requires that any application to the court shall be by petition. The technical amendment will replace "petition" with "originating notice". This provides more consistency with other provisions in the Act.

House amendment BB. The technical amendments will expand the regulation-making powers to include regulations dealing with the amalgamation of adjacent condominiums and "preparation and distribution of financial statements."

Comments we received on Bill 23 recommended that regulation-making power also deal with the amalgamation of adjacent condominiums, given that this issue will probably arise in the implementation of a phased development. Regulations dealing with requirements to provide financial statements may be required if the current provision is found to be impractical or if compliance is poor.

CC is a new provision. These are transitional or consequential amendments arising from the proposals regarding the following: number one, changing the form of the name for condominium corporations; two, insurance requirements; and three, continuation of liability for condominium fees for units sold at tax sales. These are all transitional or consequential amendments.

As I've said, there has been a lot of consultation. There is very much support. I did mention that the Alberta Home Builders' Association was part of the stakeholder group that was contacted. So I'm waiting and looking for your comments.

8:30

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

MRS. ABDURAHMAN: Thank you, Mr. Chairman. I thank the member for those comments with regards to the amendments that the government has brought forward at this time. Acknowledging that I did get them in late afternoon, I did have some difficulty in hearing all the comments you made, hon. member, because of the noise that is going on in this Assembly. Having said that, I may be asking for some clarification because I did miss some of the points. [interjections] Well, I see there's indication that it's my own colleagues, but quite frankly it's both sides of the House that are creating the noise in this Assembly.

This condominium Act is a very important piece of legislation. It's been long awaited by Albertans, and it certainly is a Bill that should be supported. I'm glad that the government has brought forward these amendments, but it does point out an ongoing problem in the time that you're given as an Official Opposition to deal in a meaningful way with the number of amendments that have been brought forward. So what I'm going to attempt to do, Mr. Chairman, is go through the amendments in the same way that the mover of this Bill has. I may indeed have to have clarification, and at that time I would welcome that it would be backwards and forwards. [interjection] There's agreement? Thank you.

The first amendment certainly is supportable as it's technical in nature. How quickly one tends to forget that their national parks are municipal entities unto themselves, so it certainly had to happen in this condominium Act. So the (a) amendment, subsection (ii), is certainly supportable. The minor amendment to (b) certainly doesn't change the meaning to any great extent, so I would certainly recommend supporting A.

B strikes out section 3. The certificate of title will not indicate other units that an owner may be using for parking or storage, and the owner then would simply have a separate certificate of title for each unit owned. That's my understanding of that amendment, and likewise I believe that that amendment also is supportable.

C, the amendment to section 5, removes the provision that an engineer must indicate whether there are post tensioned cables on the property, but I understand from what you were saying and in looking at the amendment that it's now included in E. That is going to deal with the post tensions.

D, as I understand it, is an attempt to clarify who is responsible for which door and window. I don't believe that this is the best way of amending this Bill, and I would ask the government member to look at the amendment that the Official Opposition wishes to put forward. I would say that this is more supportable. It more clearly defines who's responsible for what. So I'm saying that it's not supportable, as it's still unclear as to who's responsible for the insides of the windows and the doors which are located on the outside of a unit. In all sincerity, Mr. Chairman, I would ask that we look at this amendment and probably pull it out when we're voting in block. I firmly believe that our amendment is the preferable amendment dealing with this issue. I hear that my colleague from Calgary-Buffalo is agreeing with me. As a layperson it's gratifying when a lawyer does agree with your interpretation.

Moving on to E, once again I would suggest that this amendment is also supportable. It changes the wording from "local authority" to "municipal authority," and a certificate must indicate whether there are any post tensionable cables on the property. This is what I was referring to when you go back to C amendment, section 5. It's now dealt with under E amendment, section 7, so I would certainly recommend support for that amendment.

Amendment F, section 9. I believe this is a good amendment which provides that a developer must provide a purchaser with an occupancy permit pursuant to the regulations under the safety code. This was essential to be put in there. It's very timely, because I've been dealing in my constituency office – and I mentioned it in the House in my Consumer Protection Act, where a condominium developer sold the condominiums to people who were trusting, and they discovered after they had purchased them that they didn't meet the safety code. In fact, Mr. Chairman, there are liens on these properties now. The actual furnace was built too close to the wall. Now, there were other faults in there. So this is a good amendment, and I'm glad to see it there, because it's consumer protection.

Amendment G, section 10. As I understand it, the developer will now have to indicate "all major improvements to the common property" and "any significant utility installations, major easement areas, retaining walls" – I could go on, but I won't – but will not have to indicate "the recreational facilities, equipment and other amenities" to be used by the residents.

Now, it's not really clear why that is being removed, as those facilities seem to be fairly integral to the condo complex, so I would ask the mover if we could hear further explanation to G amendment, section 10. As I say, the way it's being interpreted is that the developer will now have to indicate "all major improvements to the common property" and "any significant utility installations, major easement areas, retaining walls," but will not have to indicate "the recreational facilities, equipment and other amenities" to be used by the residents. So why is there this exclusion and inclusion, please?

THE CHAIRMAN: Calgary-Bow, do you want to wait until Clover Bar-Fort Saskatchewan is finished and then answer them one at a time?

MRS. LAING: Yes. Just let her go on and finish.

THE CHAIRMAN: Is that agreeable?

MRS. ABDURAHMAN: Well, I hope my memory serves me well.

Amendment H. I would ask for further clarification of the common property, but I believe that this amendment could be

supported. But as I say, please clarify what "common property" is.

Amendment I. The minor word changing doesn't cause a problem. I believe it's supportable as well.

Amendment J, amendments to section 22, adds a further subsection which allows a board member to participate in decisions where the nature of the material interest is simply that of their own unit. That naturally is supportable. That is protecting the consumer, and I believe that's a good amendment. It strengthens this Bill even further for consumer protection.

8:40

Amendment K, section 25. As I understand it, it substitutes a new subsection regarding distribution of financial statements to owners. Now, when the financial statements are distributed, will they be subject to the regulations? The usual problem: that this could just as easily be set out in the Act. So what we're saying is, you know, why aren't you regulating that, with regards to financial statements, within the Bill? I'd like some clarification on that, Mr. Chairman.

Amendment L. I don't have difficulty with it. It amends section 26, and from what I can see, it's a minor wording change, unless some of my other colleagues find something different in there.

M amends section 30. It adds a subsection that provides that a sanction imposed by a condo corporation "must be reasonable in the circumstances." Now, I have a problem with this because that is wide open to definition. I mean, who's going to define reasonable? You know, we all believe we're reasonable people in this Assembly, but I would suggest that many people would think that's the furthest thing from the truth. So I really have a level of discomfort, and I wouldn't want this section 30, amendment M, being voted in block, because I don't think it is supportable unless you can clearly show how you're going to define that word "reasonable."

In N, amending section 31, (a) is wording changes to make the section consistent, (b) is a minor wording change, and (c) is a consequential amendment. These are all supportable. It's common sense and strengthens the Bill.

O is another strong amendment, I believe, which is supportable, but you have to also analyze if it is good or bad. I think it actually is good, but it changes subsection (2) so that funds from the capital replacement reserve fund can be made for capital improvements if it is authorized by special resolution and if there are still sufficient funds remaining. I felt this was a good amendment inasmuch as I believed it would be a two-thirds or three-quarters majority support vote by the owners, and the mover indicated it was 75 percent. So I firmly believe that this is also one of those amendments that's going to strengthen this Bill. The other is that it's only common sense that it be qualified if there's sufficient funds to do the job, so that indeed gives the owners of the condominium a level of protection. So I would be supporting that amendment.

P amends section 33. It gives greater priority to a corporation's caveat by including public auctions. We also had an amendment dealing with this area, but because this amendment's in here, I would suggest that we will probably have to defer to this one. I think our amendment is equally as good if not better, and the mover might want to look at that. As I say, our amendment goes further by giving the caveat priority over everything. Now, I don't know whether we can put a subamendment to that, but I rather think the legal counsel's indicated that we can't do a subamendment to the government amendment to the amendment. I'd ask the mover to please take a serious look at our amendment, because it is the stronger amendment. It certainly would serve Albertans, the condominium owners, more positively.

Q amends section 34. It adds a subsection which states that a corporation cannot charge interest at a rate greater than that prescribed by the Judgment Interest Act. Now, I'd ask the mover: am I reading that correctly? Because if that's the case, then it's very supportable. So I'd want to know: is it as prescribed by the Judgment Interest Act?

Amendment R, section 35. Once again we're seeing minor word changes. It's not quite clear, and this is where I was having some difficulty hearing why this was necessary. "Steps" and "proceedings" technically have different definitions with regards to courts, and costs may not be recoverable for all steps, whereas they might be for proceedings. So I would ask the mover to once again address amendment R, section 35.

Amendment S, section 36, rewords the section, giving relatively the same meaning. I was a little bit puzzled why that was necessary. As I understand it, it also deletes a subsection that required any excessive money to be invested. I would say that probably serves our condominium owners in a positive way. It allows the money to be invested or not, which is probably a good idea, depending on the situation. So there's an option there, as I understand it, and once again I'd ask for clarification. Is this being interpreted correctly?

As I understand amendment T, section 37, it's all to do with minor word changing, and it means that the legislation reads more correctly or it reflects more legislatively what should be there. I gathered it had to do with those post tension cables and that.

U amends section 38. It specifies that a mortgagee may inspect any records of the corporation pertaining to management or administration rather than all of the records, as previously worded. I believe that is supportable as well, but I'd welcome my legal colleagues to look at . . . [interjections] Well, I hope that you look at this from a consumer perspective and not making work for lawyers. U amendment, section 38: I want you to look at that closely just to make sure that I'm interpreting it rightly. [interjections] I really do like you.

AN HON. MEMBER: This is your make-work project.

MRS. ABDURAHMAN: That's right.

V amendment, section 39. This is another good amendment, and it certainly will be fully supported. It clearly indicates that we don't need our amendment in this area. So it makes it clear what types of insurance the corporation must have. As you will recall, the original wording was too general, and as I say, we proposed that amendment there. So I'm saying that we should support this government amendment and not put forward our amendment. It's not necessary.

W amendment to section 40 removes the ability of a corporation to charge for providing a copy of an insurance policy. I think that's great. It looks after the consumer again. They should never have had the ability to charge in the first place, so I would suggest that that's supportable.

X amends section 44. Once again, I don't want to get into any detail here. It's a minor word change, as I understand it.

Likewise, Y amends section 45. Once again, we've got minor word changes.

Z amends section 46. This appears to be a whole new section, but I believe it's only minor word changes, as in X and Y. I'm

curious as to why it was necessary, and I missed the comments as to why we had to have this whole new section put in.

AA of the government amendments. Once again, as I understand it, we're looking at minor word changes here, and it's supportable as well.

BB, amending section 55, an addition to the regulations regarding the amalgamation of adjacent properties. Other than the usual problems that we have with regulations – you will be seeing our ongoing amendment on law and regulations coming forward. With regards to the amalgamation of adjacent properties and the regulations, I'd like to have a better understanding of how that works positively for the condominium owners there. I haven't had time to really peruse that whole section, and I'll do that when I sit down.

CC adds section 61.1 and sections 61.2, 61.3. From what I can see, these are transitional and consequential amendments, and I believe at this time, unless my colleagues show otherwise, then CC would be supportable.

8:50

Mr. Chairman, I look forward to having further clarifications. I just want to add at this time, because I certainly would like to speak to this Bill further at the appropriate time, that the Condominium Property Amendment Act is long overdue, and the government amendments that they're bringing forward do strengthen this piece of legislation. I am taking from this that the government has heard from the same people that the Official Opposition has heard from. I would ask the member to please consider where I have suggested that our amendment being put forward is preferable in some instances, and it might look at replacing the government amendment.

Thank you.

MRS. LAING: Questions now on G. The amendment will not exclude the disclosure of common property. It will clarify that the developer must disclose major improvements both within and without any buildings in the condo plan.

M, the reasonable sanction. The question was: what is reasonable? I believe this term was used in the Franchises Act, was it not? So it has set a precedent that "reasonable" would take into consideration all the available information to determine what is reasonable and that type of thing. So there has been a precedent set for that one.

H, common property. There is a little bit of debate, perhaps, on what's common property. Generally it's considered all the things that a person would use and other people would have access to. So your hallways, walkways, and if you have a recreation room that's available to everyone, that would be common property: all of those types of things.

Condo fees. You mentioned your amendment. In that case you're saying that the condo fees would take precedent over everything else, and there was some concern with that idea, that it could even take precedent over municipal taxes. So we couldn't agree with that.

The other one was on Z, section 47. It replaces, at the bottom there, 47(1)(c)(a), and it says,

> requiring the tenant to give up possession of the rented unit if the Court is satisfied that
>
> (i) a person who is in possession of that unit has caused or is causing excessive damage to the real or personal property

and so on. This again outlines that you can go to court and you can get a court order if there is a person who is damaging the property or causing excess concern around the condo. So you could take them to court and get an eviction order. This just reinforces that that would be available in extreme circumstances, that you could use the court proceedings for that type of a problem.

Okay? I guess that covered most of them. Thank you.

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

MR. DICKSON: Thanks, Mr. Chairman. Overall the Bill's a very good piece of remedial legislation. I had a chance when I saw the Bill to talk to a number of the condominium property owners and developers in my constituency who are enthusiastic about the Bill. Now, they hadn't seen the latest package of amendments, but generally the Bill, as I understand it, is well supported by lawyers who practise almost exclusively in the condominium area as well as people in the industry.

A couple of questions I've got relative to the package of amendments we have in front of us. If the Member for Calgary-Bow would look at her amendment O, this amends section 32, and it deals with a capital replacement reserve fund. Now, I'm wondering why is it, if in fact this member received the submission that I've seen from the Alberta Home Builders' Association – I understand that she did talk to that group. Then the Calgary Home Builders Association raised with me the concern that at least in Ontario and Manitoba what they do is specify the elements of the formula for the capital replacement reserve fund. Rather than leaving it as it is, hon. member, through the Chair, "to provide sufficient funds that can reasonably be expected to provide for major repairs and replacement of," et cetera, what happens in both Ontario and Manitoba is that they actually have a precise funding formula that's integrated into the Act. I didn't hear an explanation in terms of why in this case the hon. member chose not to pursue that route. To me, there's some attractiveness to having that kind of a defined formula rather than leaving it as loose and as ill-defined as it is. Now, there may be some good and compelling reason, but I'd like an explanation, if the member can, on that particular reason.

I appreciate the explanation I got. It allays some of my concerns and certainly answers some of the questions I had with respect to the other elements, but that would be the particular one with respect to the amendment package I'd appreciate some clarification on, Mr. Chairman.

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

MRS. LAING: Thank you, Mr. Chairman, and hon. member. There was a lot of discussion on whether or not there should be a percentage such as 5 percent, 10 percent, that type of thing. The general consensus was that it should be left flexible. There might be older buildings that are in more disrepair or have more structural damage where you might need to have more money, which the board members would agree to put into the reserve fund. There may be brand-new buildings where things are very good and it's well made and in good repair, where you probably could get by with a much smaller amount.

So it was felt that the board of directors for the condo and the owners, who have to agree – 75 percent have to agree with any of these kinds of bylaws – would be better able to decide for themselves exactly what amount should go into that reserve fund. Again, they could take in the condition of the building, the age of it, and the wear and tear they felt would come. If it was a condominium where you had a lot of children, you know, there

might be a little bit more wear and tear on the common areas. So it was decided that it would be best left to the discretion of the board of directors, who would make that determination with the 75 percent agreement of the owners.

Thank you.

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

MR. DICKSON: Mr. Chairman, thanks very much. I appreciate that explanation. The other comment would be just from quickly looking through this. I take it that none of these amendments address conversions. Perhaps the member could just confirm that, because I have some concerns that have come to me from constituents, developers and lawyers in that area, relative to conversions. On a quick read through this amendment package, it appears that it's not addressed. If I'm wrong in that respect, I hope the member will correct me; otherwise, I'll raise those concerns perhaps after we finish disposition of this package of amendments.

THE CHAIRMAN: Calgary-Bow.

MRS. LAING: Thank you, Mr. Chairman. Conversions are considered part of the package. This Bill addresses things like bare land condominiums, business condominiums, and conversion. The post tension clauses would be conversion as well. I think that just the fact that it's acknowledged that they may have to put a different percentage into the reserve amount is another recognition that these buildings could be conversions. So it's sort of through the whole thing. There's no particular clause on it, but there's a general theme right through the whole Bill that they are addressed in there as well.

MR. DICKSON: Thanks very much, Calgary-Bow. I just want to say that it's refreshing to have such forthright and prompt responses, Mr. Chairman. I appreciate it.

The question, then, related to that in terms of conversions. One of the things that was raised with me by the Calgary Home Builders Association, hon. member, through the Chair, was a concern that for buyers of condo units that have been converted from rental units, they saw some real advantage in having electrical, mechanical, and plumbing reports done and available to a purchaser so the purchaser could identify potential problem areas right up front at the time that the offer is made. That struck me as being a fairly positive suggestion. I'm wondering: is there some reason why that didn't make it into the amendment package? I don't see it. There may be some good reason why that's been considered and rejected, but it struck me as being quite persuasive when I heard it from those Calgary builders, Mr. Chairman.

9:00

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

MRS. LAING: Thank you. In the Bill itself, which was earlier presented, there are the full disclosure requirements, that if you're buying a building, they have to give you full disclosure. As you notice in G, the description, drawings of additional items such as utility installations and retaining walls are basically what's referred to as the as-built drawings. So if there are amendments made to the plan, that has to be recorded, and if you're buying that building, you are entitled to receive those drawings so that you know exactly where the sewer lines are and all those types of things, including electrical wiring. There is in the Bill itself the disclosure requirements. In fact, that was one of the things that I think is very strong and a real highlight when we talk about consumer protection: the fact that all those things do have to be disclosed to you as you begin your agreement to purchase.

Thank you.

THE CHAIRMAN: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you very much. Speaking to the amendments generally, I'm always curious, Mr. Chairman, when the hon. member brings forward a Bill of this magnitude, a significant Bill of significant size, and less than three weeks later comes forward with 11 pages of amendments and indicates that the Bill was field-tested in some fashion prior to the actual Bill being brought before the Legislative Assembly. I would be interested in the explanations of the member again as to the field testing of it and as to why so many amendments were necessary if indeed the consultative process on this very important issue has been as wide as it is purported to be.

Now, Mr. Chairman, it is timely that the condominium Act be reviewed and that these amendments come forward because more and more people are electing to live condominium lifestyles. It seems to attract those people who are empty nesters, and you know that the demographic bubble is such that there will be an increasing number of empty nesters and therefore increasing pressure for condominium type ownership.

In that spirit of frank, nonpartisan appraisal of the hon. member's amendments, I'd like to point out a few things to her and suggest a few other concerns, none of which because of the time will likely come forward in opposition amendments but which are cautionary issues that she may want to take a long, hard look at.

The first issue that I want to raise is the issue that is set out in the member's amendment M, which is found on page 4 of her amendment package. That in turn amends section 30 of the amendment Act, which in turn amends section 28 of the original Act, and that is the section, members will recall, that allows a condominium association by bylaw to penalize for minor infractions within their condominium association. They can set up monetary penalties, in effect, to encourage attitude adjustments, if I could use that expression.

I am still troubled by the hon. member's approach to handling this problem by creating a subjective test to what is obviously a penalty or a punishment. It seems to me that some objective upper ceiling in that particular case should have been installed, such as that a bylaw fine or infraction could not result in a monetary penalty of more than $200 or $300. I mean, a reasonable charge in the circumstances clearly, Mr. Chairman, is always in the eyes of the beholder. I think the condominium owner being asked to pay that penalty for leaving his bicycles chained to the fire hydrant in front of the condominium might have a different view as to what is fair than the condominium association does. I think that the hon. member has unleashed a bit of a monster into the condominium mosaic with that particular approach.

I want to also direct the hon. member's attention to section 47 of her amendments – they are found on page 9, Mr. Chairman – which allows the condominium owners themselves to evict a tenant who in fact is renting or an invitee of a unit holder. Now, that is a laudable objective, and it is reasonable that the condominium association acting on behalf of all of the owners collectively have that power. My concern is that normally in a matter that goes before the courts, by way of originating notice it is pretty

clear who the parties are. In this particular case, there is a certain vagueness. Now, obviously one of the parties will be the condominium association; the other party will be the person that you want to evict. Surely, there should be in this section a mandatory requirement that the actual owner, the registered owner of the condominium unit, also receive notice of that particular proceeding in court against the owner, particularly if there is going to be an application for court costs that will go with that.

Now, the difficulty with this section, as I see it, is it leaves vague as to who should get notice, and it also leaves vague whether an owner, simply by taking a chance on a bad tenant, can be further penalized by the condominium association by being obliged to pay the condominium association's costs. So, Mr. Chairman, those are two of the concerns that come to mind on the amendments.

The last area of concern has arisen from the hon. member's debate with the hon. Member for Clover Bar-Fort Saskatchewan, and that is that she discussed whether the condominium fee would take priority over everything, including taxes and the like. Now, it seems to me that what in fact has happened is that municipal governments have been dealt a bit of a blow in this particular Act. If you take recourse to page 5 of the amendments and study there amendment P, amendment P modifies section 33(d) of the proposed Bill, and that is the section by which a condominium owners association can file a caveat for unpaid levies, unpaid fines, and unpaid condominium fees.

Well, you will now notice that if there is a tax sale or a municipally controlled sale, the condominium caveat still remains on title. What you have effectively done in my estimation, hon. member, is that you have said clearly to municipalities that they do not get priority, because of course the unpaid condominium caveat will continue to rank, even if the municipality moves under the Municipal Government Act to take title of that condominium following a nonsale through the public auction process.

[Mr. Clegg in the Chair]

Now, we would have to consult I think widely with legal counsel acting for Municipal Affairs, and I know that the hon. minister in charge of Municipal Affairs might have some concerns about that. It seems to me that what has happened here inadvertently, hon. member, is that we have taken away an age-old priority that municipalities have, and that is to get their taxes first and foremost in absolute priority. You might want to take another hard look at that and sort of field-test that section just a little bit more.

With that, Mr. Chairman, those conclude my comments on the hon. member's group of amendments.

[Motion on amendment A1 carried]

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

MRS. ABDURAHMAN: Thank you, Mr. Chairman. I rise to speak to Bill 23, and I will be putting forward some amendments at this time. It's unfortunate that the mover did not consider at this time pulling P and also D, because I firmly believe that the amendments I'd shared with the mover this afternoon were preferable to the government's amendments and would have served Albertans more positively. In their wisdom they moved forward fully supporting all of the amendments that were brought forward at this time.

You know, Mr. Chairman, purchasing a home is probably the biggest financial investment that we ever make in our lifetime, and it certainly is for a lot of people that purchase a condominium. So as my colleagues and the mover have stated, this Condominium Property Amendment Act is indeed a very important piece of legislation because it protects those dreams of Albertans. Also, as my colleagues have indicated, many Albertans are choosing the condominium lifestyle, particularly I think because our cold climate sometimes extends into six months of the year. We see more and more people wanting to travel, and it's very nice to be in a condominium development. You can literally close the door and take off and feel very secure. Unfortunately in many instances from a consumer perspective they weren't very well protected under the old legislation.

9:10

Mr. Chairman, this Act in some respects is certainly a good piece of legislation because it does provide greater consumer protection and also contains provisions for court remedies. As I've indicated, there was not the degree of consultation with Albertans, and that was clearly demonstrated by the number of amendments the government had to bring forward. In fairness, they did hear and take note of those comments after the Bill was tabled and allowed us to deal with it in the Committee of the Whole to strengthen the Bill. So I have to congratulate the mover on allowing that to happen.

At this time what I'd like to do, Mr. Chairman, is move the amendments under my name. Because of the government amendments that have been moved and voted on and carried, amendments 4 and 5, that are on the pages that I believe are being distributed at this time, will not be moved as they would not be received by Parliamentary Counsel as being legitimate amendments at this time because of the amendments that have been previously dealt with.

Mr. Chairman, is it all right to proceed with moving?

THE DEPUTY CHAIRMAN: Yes. I think they've been distributed, hon. member. We're striking out number 4 and number 5.

MRS. ABDURAHMAN: Thank you. Well, I would move that section 6 be amended in proposed section 7(2.1) by striking out "for the purposes of subsection (2)" and substituting "for the purposes of subsection (2)(b)" and in clauses (a) and (b) by adding "interior" after "does not include the." Mr. Chairman, I believe this is an important amendment at this time because it strengthens and clarifies the intent of this section. What we don't want happening with any piece of the legislation is condominium owners not knowing what is within and what is external. So I would ask that this amendment be supported.

The second amendment is to move that section 16 be amended in proposed section 16(1) by adding "the building has been reviewed by a qualified building inspector and" after "until". This is essential, that a building be reviewed by a qualified building inspector, and this is further consumer protection. I can't believe, Mr. Chairman, that amendment would not be supported by all members of this House. We want a professional inspection done and full protection of the potential owner and owner of a condominium.

Amendment 3 moves that section 32 be amended in proposed section 30.1 – Calgary-Buffalo spoke to this area of concern – by adding the following after subsection (1):

(1.1) A corporation shall place 5% of the contributions raised

annually pursuant to section 31(1)(c) in the capital replacement reserve fund.

I believe this is an essential component to make this Bill indeed a Bill beyond question when it comes to ensuring that condominium owners don't find themselves in a dilemma where a roof or a general area like the parkade needs significant improvements and there's no money in the reserve fund. We're putting forward at this time, Mr. Chairman, 5 percent. I think that's a reasonable level. It could be higher, but the decision was to put it in at 5 percent. Once again I'd ask all members to support that. It's further consumer protection.

My final amendment, Mr. Chairman, is that

section 55 be amended by adding the following after subsection (b):

(c) by renumbering section 73 as section 73(1) and by adding the following after subsection (1).

I don't believe I need to read all of this amendment into the record. It's before everyone. It's the one that will continue to be brought before this Assembly until this government starts to behave in a very meaningful, democratic process and ensures that regulations meet the scrutiny of this Legislative Assembly and that Calgary-Shaw, as chairman of that rules and regulations committee, starts to do the job that through this Legislative Assembly they had their appointment ratified. I would think that under the Condominium Property Act this is essential, that the types of regulations that can be developed through this Legislative Assembly serve those individuals, the consumers who indeed end up being condominium owners, in the best way or in the most positive manner and protect their interests.

With my first amendment what I am attempting to do is to make it clear who is responsible for what when it comes to windows and doors. Everything on the interior should be the responsibility of the individual owner, while everything on the outside is the responsibility of the corporation. This Bill doesn't clearly define that, and I can't imagine why this amendment would not be supported. Surely an owner wants to know what they are financially and maintenance-wise responsible for and what the corporation is responsible for. To me it seems so simplistic that it should be housekeeping. So, Mr. Chairman, I would urge all members to support that amendment.

Likewise, just reiterating, you'd want a qualified building inspector to have reviewed the building. You know, to me it's common sense. It's a safeguard. It protects the consumer.

THE DEPUTY CHAIRMAN: Hon. member, I hate to interrupt, but I am totally confused. I understand that you were doing these in a block. You went through them all, and now you're back on 1.

MRS. ABDURAHMAN: I'm just reinforcing my . . .

THE DEPUTY CHAIRMAN: No. Just one minute. I'm not questioning. If you in fact are moving them all in a block, that's very well with me. So that's your intention, to move them all? Thank you. Go ahead then.

MRS. ABDURAHMAN: Okay. I was just reinforcing my debate as to why you should support amendment 2, which was the qualified building inspector to inspect and review the building.

The third amendment, Mr. Chairman, was to ensure that "5% of the contributions raised annually pursuant to section 31(1)(c)" be placed in the capital replacement reserve fund.

I won't reiterate the rules and regulations amendment.

I will take my seat and allow my colleagues or other members of the House to speak to those amendments.

9:20

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

MR. DICKSON: Thanks very much, sir. With respect to these amendments being put forward, I'm speaking in support of the package of amendments, but I wanted to turn specifically to number 3. This is the one that provides the defined formula. Just going back to what the Member for Calgary-Bow had said a few moments ago in response to my query, as I understand her comment she thought that because of the high threshold, because of the requirement of a special resolution, that would provide adequate security. I guess what I'm puzzling over is whether this member received the same submission I did from the Calgary Home Builders Association.

I suspect that must be one of the largest organizations in the province that's concerned with this. When the Calgary Home Builders Association tells me they think there would be some advantage in going with this kind of a defined formula, I guess I'm wondering what it is that would discount that considerable kind of expertise and experience that they have achieved through building presumably thousands and tens of thousands of condominium units in the city of Calgary.

It seems to me, hon. Member for Calgary-Bow, through the Chair – and I'm focusing specifically, Mr. Chairman, on amendment 3; that's the one I'm most concerned with – that if you have a defined formula, or we might call it a defined contribution formula, then it probably makes it easier in terms of marketing units, in terms of selling units if there is sort of an industry standard, if you will, that would be clear, and that if you were a realtor, if you were a condominium developer or an owner of a condominium unit looking to sell, maybe it facilitates sale. Maybe it makes it easier to be engaged in commerce over condominium units if there's a general industry-wide expectation, if there's that kind of formula.

I'm looking for an analogy. If I think in terms of a builder's lien, the Builders' Lien Act, everybody knows that there's a builder's lien holdback, and it's calculated on a percentage of the value of the contract. It's very clear and everybody knows that. I think the value with this particular amendment is that it does import that kind of certainty. It creates a standard that would apply anywhere in the province to any condominium unit.

So when the Member for Calgary-Bow says that it's okay because there's this high standard, I'm not sure that's as persuasive to the industry as creating this kind of formula. Maybe the Member for Calgary-Bow, because I know she tends to very competently research these matters before she speaks in the House – is it a question that in Ontario and Manitoba they've had problems where the condominium industry, if I can call it that, in those provinces have come back and said that there's been a problem with having that kind of a formula? I don't know. I don't know the answer to that.

The submissions I received from the Calgary Home Builders Association – I didn't have an opportunity, because things were moving so quickly in the House, to be able to sit down and go through each one of the recommendations with them. But it strikes me that the experience, as I understand it sort of third- or fourth-hand, is that it's been reasonably satisfactory in those jurisdictions of Ontario and Manitoba to have that kind of a funding formula.

So I'm wondering: is there some additional reason? I understand what the member said before, but I'm thinking: is there is some other basis, if we have some other intelligence from those other provinces, if we've got some reason to think that doesn't work? Just to come back again, would the Member for Calgary-Bow address this concern? Does it make it easier, does it make it more difficult to sell condominium units when you have that kind of a standard contribution to the capital reserve fund? So we'd have in effect what we might call a defined contribution kind of arrangement.

Now, I'm hopeful we can get answers to those queries tonight before we vote on this. As I said before, it's a very positive Bill. I want to support the Bill. But I also think I've got some pretty serious responsibilities to, if I can call it, the condominium industry in my constituency who have raised those concerns in good faith and expect me to ferret out answers. So hopefully I can get some responses on that.

Now, I think I'll spare members of the Assembly my comments on the old warhorse, the law and regulations amendment, which I suspect people could write the speech.

MRS. BLACK: Yeah. Don't give it again, Gary.

MR. DICKSON: The hon. Minister of Energy says that she knows it verbatim. Mr. Chairman, that's good. Maybe we've accomplished something. They say some positive things come through repetition.

Okay, Mr. Chairman. Those are my principal concerns on the amendments. I appreciate the observations made by my colleague for Clover Bar-Fort Saskatchewan. But I am hopeful the Member for Calgary-Bow can give some further clarification on that one amendment. I think that I'd conclude my comments and my questions at this point on the amendments.

MRS. LAING: Mr. Chairman, just a couple of questions I'll try and answer to the best of my ability. The Member for Fort McMurray asked why there seemed to be so many amendments. There was consultation done before with the discussion paper and a general discussion, and then many of these requests for amendments came out after the Bill had been published and had been distributed to them. So there were further consultations on the Bill, and that's where the technical amendments came from.

Section M, again, the change here will make it clear that the corporation cannot develop sanctions in its bylaw that are undue or overly harsh. Remember that the owners, the board of directors, have input into what those bylaws are, and I think it's up to them to ensure that their bylaws are fair and are the kinds of things that they would like to live by.

Also, the 5 percent concern in the amendment by the hon. Member for Clover Bar-Fort Saskatchewan. With discussions with some of the other provinces it was found that this percentage formula has not been very effective. In fact, Ontario is currently considering changing its formula and is in consultation to find another process regarding the amendment. They've found in the past that perhaps it hasn't worked as effectively as being basically based on the market economy, such as we are, where you look at your building and what you feel its needs are and what amounts of money you feel you will have to put forward for those.

With regards to the amendments that the hon. Member for Clover Bar-Fort Saskatchewan put forward, number 1 certainly does have some merit, but we would need to take this back out to consult with stakeholders, so perhaps it's something we could look at at a later time. Number 2 we felt really wasn't acceptable because this would add another step, and, again, it would be difficult to enforce. It also would be not very practical, and it might hold up people in their assessments. I've discussed number 3 already. Number 4 we discussed as we were discussing our amendments. Of course, 6 and 7, the Standing Committee on Law and Regulations, we've discussed that many times before.

So those would be my comments on the amendments. It would be, I think, very important that we look at the whole Bill and look forward to passing it and putting it into effect. Many people in the industry are looking forward to this. The legislation is so outdated that it really doesn't address business today. There's also a good degree of consumer protection in the Bill, so I would really ask all members to support it and the amendments.

Thank you.

9:30

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

MRS. ABDURAHMAN: Yes, Mr. Chairman. Before we vote on these amendments, I want to acknowledge that on amendment 1, which is dealing with who owns what with regards to windows, et cetera, there's acknowledgment that that probably would enhance the Bill. So I acknowledge you're going back out to the marketplace to get feedback.

But I'm really disturbed, Mr. Chairman, by the comments about amendment 2. We're looking at protecting the consumer and ensuring that people get quality for the dollars they expend. To suggest that it would delay it inordinately to have a qualified building inspector inspect the property, I just can't accept that, and I want it on record that I believe that that amendment should be accepted at this time. When you look at section 16(1), we had added after "shall not sell or agree to sell those premises as a unit" until ". . . a qualified building inspector." I think that's a small thing to ask to ensure that that condominium meets all the standards of the marketplace, yet we're seeing that amendment not being supported. I'm truly disappointed about that, because I think that takes away from consumer protection.

Thank you, Mr. Chairman.

[Motion on amendment A2 lost]

THE DEPUTY CHAIRMAN: Hon. Member for Fort McMurray, I have a nice chore to do, if you would just take your seat for a minute.

Tonight we're again sad to have one of our pages, Charlotte Bourne, leaving us. It will be her last night. In fact, it will be in about 25 minutes from now. I'm sure that we all want to say thank you to Charlotte.

AN HON. MEMBER: Lynn is leaving too.

THE DEPUTY CHAIRMAN: Oh, Lynn Dickson is leaving too. I didn't know that Lynn was leaving us, but I'm sure the House wants to wish them both all the very best. I do know that Charlotte is going to go to Rocky Mountain House to work in the credit union there to look after the hon. minister of the environment's money, or part of it anyway. So to Charlotte and Lynn, I'm sure the House all appreciate your good manners and your pleasant smiles around the House. The House wants to thank you very much for your work here.

AN HON. MEMBER: Mr. Chairman, they said that if they could sit in this chair all the time, they'd stay longer.

THE DEPUTY CHAIRMAN: I can't believe that, hon. member. The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you very much, Mr. Chairman. On the Bill itself, now that we have moved through the amendments, I want to suggest, with the greatest of respect, that the sponsor of the Bill and the ultimate minister who will have responsibility for this Bill take some serious looks at some of the sections. I want to put my concerns on section 8.1 on the record. Now, section 8.1 is a very peculiar section, hon. members, because it says:

> Every agreement to sell a unit imposes on the developer selling the unit and the purchaser of the unit a duty of fair dealing with respect to the entering into, performance and enforcement of the agreement.

I want to suggest that that sets a very dangerous precedent, because it is my respectful estimation that in the province of Alberta a purchaser is under no legal duty to exhibit any fairness whatsoever to the vendor in terms of the tightness of the deal that is negotiated. I was discussing this with the hon. minister earlier, and I said to the minister that surely this can't mean that a purchaser, if he thinks the property is worth $80,000 and he's getting it for $40,000, has a duty to come forward and say, "No, no, no, developer, you're selling the property too inexpensively." The minister's response to that was that this tracks a similar wording in the Franchises Act which calls for a duty, a fair dealing on both parties. But unlike the sale of a condominium unit, a franchisee/franchiser relationship is an ongoing relationship. It goes on day after day, month after month, year after year, et cetera. A purchase of a condominium unit is the buyer trying to get the very best deal the buyer possibly can.

I want to strongly suggest that that particular section, 8.1, is capable of misinterpretation in the courts, and you might find that a developer who is forced to sell off the last 50 percent of his units at a discount might later be able to come back and claim additional money from the purchaser. It may sound farfetched to this Assembly, but funnier things have happened. So I would be very grateful if before debate closed the member sponsoring this Bill or the minister in charge would put it clearly on the record that this did not intend to curtail or curb purchasers trying to get the very best deal they possibly can. If that's not the case, then something is seriously wrong and we've gone a long way into interfering with contractual relationships. I know there may be some comfort because of the tracking to the Franchises Act, but the two situations are not the same and are not applicable.

Another area of concern that I have, Mr. Chairman, is found on page 16 of the Bill, and that is the obligation for the board of directors of the corporation to file a notice of "the names and addresses of the members of the board." I would like to suggest that an annual filing at the land titles office every year is a waste of the resources of that office and a waste of the resources of the condominium owners. I would like to suggest that in subsequent amendments of this Bill a simple posting in a conspicuous place in the common areas of the condominium may be adequate, since you can always write to the condominium association for the service of legal documents at their registered office, which is documented at the land titles office.

Another area of concern that I want to raise which strikes me as peculiar and odd is found on page 25 of this Act, where it says that basically a corporation may lease common property to an individual or independent owner. I would like to suggest that if you buy into a condominium, you are buying a piece of all of the common property. For the corporation to then lease some of the common property on an exclusive basis seems to me to be inappropriate unless it is intended for short-term leases such as the use of a party room or the use of a recreational area. If that is the case, it should say so, because otherwise what you could have happen is that the corporation could effectively deprive an owner of use of their common property by simply entering into a long-term lease. This might be an area that should be looked at.

With that, Mr. Chairman, I sense that the House grows weary of committee stage on Bill 23, so I will take my place.

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

9:40

MR. WICKMAN: Mr. Chairman, just very, very briefly and on a very positive note, earlier today the Member for Calgary-North Hill made mention of a good Bill coming from a private member here, Bill 215, which came from the Member for Edmonton-Highlands-Beverly. I agree with that remark. Periodically – in fact, if you look at our record, more often than not we've supported government Bills – good pieces of legislation come forward from government, and this is one of those good pieces of legislation. Not perfect, mind you. It could have been made perfect had the amendments of the Member for Clover Bar-Fort Saskatchewan been accepted. Nevertheless, on the basis of what's here, this is a good Bill.

I've had the opportunity to be involved in a condominium project with my son, and I learned firsthand some of the difficulties that current condo owners have experienced. Mr. Chairman, let me say that under the present legislation there is great abuse of consumers, tremendous abuse of consumers. There are instances where people will buy condos, and three months later they're suddenly hit with a tab for $5,000 for capital expenditures for repairs because there has not been a reserve set up. Some of them have been marketed to look attractive by setting the condo fees artificially low. That all catches up. What this Bill does is correct many of the shortcomings that are there in the condo industry at the present time.

The other thing with this Bill that should be pointed out: this Bill has been actively promoted. There has been consultation with the condominium association. I spoke to that organization some months ago, and they pointed out some of the shortcomings they had seen in the existing legislation. That condominium association will applaud the steps that are taken here. In fact, the condo association will say that this is a start. It doesn't go as far as they would like to see it go in terms of protecting the consumer, in this case the person that is purchasing the condo.

On that note, Mr. Chairman, I'm going to conclude so we can conclude Bill 23 and get it into third reading.

[The clauses of Bill 23 as amended agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed, if any? Carried.

Bill 29
Employment Standards Code

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

MR. GERMAIN: Thank you very much, Mr. Chairman. I'm now in a position to move the first of a group of amendments to Bill 29, and for ease of staff labour I'll also ask the pages to hand out the second group of amendments I will be dealing with as well so we can deal with that without disrupting the business of the Assembly.

Mr. Chairman, if members will recall, the minister responsible for this Bill indicated that it was primarily housekeeping. Members will also recall that in the debate at second reading of this Bill it was suggested that the government had a wonderful opportunity to correct and bring forward progressive legislation that dealt with Bill 29. I would like to do that tonight by launching and kicking off amendments that I know will intrigue the Assembly this evening, that will cause the Assembly to think carefully about the amendments, and that will cause the Assembly to perhaps vote for the approval of these amendments. Some of the amendments have been shared with the Minister of Labour; some have not. I can't comment on which ones he's seen and which ones he hasn't seen, so I'll assume that a full explanation is necessary on all of the amendments.

The first amendment that I wish to introduce to the Assembly is . . .

THE DEPUTY CHAIRMAN: Order, hon. members. Hon. Member for Lethbridge-East, would you kindly take a chair, please.

MR. GERMAIN: Any chair.

THE DEPUTY CHAIRMAN: Any chair. That's right.

The hon. Member for Fort-McMurray.

MR. GERMAIN: Thank you very much. If members of the Assembly will study paragraph 7 of the minister's Bill found on page 11, they will see that in paragraph 7(2) it says that "a pay period must not be longer than one work month." The first proposed amendment is to add after that section the words "unless the employee and the employer have previously agreed in writing" after "work month".

Now, so that it is absolutely clear today, the amendments that I present and move will all be moved on an individual basis, debated on an individual basis, and voted on an individual basis. So of the two sheets of paper that are being handed out to the Assembly now, the amendment that I am discussing is the amendment that says: the mover to move that section 7(2) be amended by adding "unless the employee and the employer have previously agreed in writing" after "work month". Now, what this will effectively do, Mr. Chairman, in my estimation, is allow employees and employers to make a special deal if a monthly cycle is not adequate for them.

Now, let me tell you the types of employee/employer relationships that I think will be most affected by this. Very rarely will an employee agree to have a pay period that is longer than one month. However, it is conceivable in the case of closely held, family small businesses, because you will recall that sometimes in a family small business . . . [interjections]

Chairman's Ruling
Decorum

THE DEPUTY CHAIRMAN: Order. Just calm it a little bit, please. You know, it's okay to talk quietly, but when you drown out the speaker, then it becomes a little loud. [interjection]

MR. GERMAIN: I don't know why somebody who contributes, with respect, so little would make those kinds of caustic comments when we're trying to speed things up and go home at 10 to 10, frankly.

DR. TAYLOR: Well, sit down, Adam, if you're trying to speed things up and go home.

MR. GERMAIN: I'm going to make the amendment, if you don't mind.

DR. TAYLOR: I do mind.

MR. GERMAIN: Well, then you can stand up and speak in opposition to the amendment, because this amendment is directed to improve farm working relationships, and I understand you might know something about the agricultural business.

Debate Continued

MR. GERMAIN: So, Mr. Chairman, getting back to this amendment. The types of businesses that are affected by this are closely held family businesses where for strategic tax planning and accounting reasons they do not want to declare who has earned what income and how much income they have earned until the end of the fiscal year when they can take a look at their financial records. If we do not allow them some latitude to have a pay period greater than one month, what we have done is we have forced them to make remittances, payroll deductions, and the like, significantly in advance of when they want to get that information together for their accounting and bookkeeping.

There might be other relationships where individuals are involved in a farming or agricultural work environment where they've agreed to be paid in part based on the produce or the crop or at the end of the harvest season, and all of those special and unique relationships, individuals working in the agricultural sector, should have the opportunity to contract for a work period longer than one month. That is the submission on this first amendment to Bill 29: to add to section 7(2) the qualifying phrase, "unless the employee and the employer have previously agreed in writing", so that you could have a work period longer than one month if the parties agreed to it in writing.

This would also improve and enhance the notice requirement that individuals could get if they were being terminated from the job, because of course if you are being paid bimonthly or your work period is bimonthly, then it would reasonably flow that your argument would be sound that you're to get a bimonthly notice as well. So there are some advantages that can be seen to both employers and employees with this type of section.

I would urge all members of the Assembly to vote in favour of this first amendment.

[Motion on amendment A1 lost]

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

9:50

MR. GERMAIN: Thank you very much, Mr. Chairman. Now, the second sheet of paper that was handed out at the same time has, for the purpose of saving paper, three amendments on it. I will move the first one, which is an amendment to section 13.

Now, to refresh the memory of the Assembly, section 13 of the Employment Standards Code is the section that deals with the notice of a reduction in pay. Section 13(1) indicates basically that

> an employer must give each employee notice of a reduction of the employee's wage rate, overtime rate, vacation pay, general holiday pay or termination pay before the start of the employee's pay period in which the reduction is to take effect.

Now, if we look at that first amendment, section 13.1, the first amendment on this page, what is proposed to be added after section 13 is the following:

> Where an employee, whose wage rate, overtime rate, vacation pay or holiday pay has been reduced either in accordance with section 13 or by agreement with the employer, ceases to be employed by the employer within 6 months of the date of commencement of the reduction, the employee's entitlement to benefits on termination in accordance with this Act shall be based on the rates of pay provided for prior to the reduction and calculated as if the reduction had not taken place.

Mr. Chairman, this is a very important amendment that I'm sure other Members of the Legislative Assembly will want to speak to. This issue was raised about two and a half years ago. You will recall, Mr. Chairman, that this issue was raised when the Minister of Labour was dealing with other employment legislation, and it related to the situation that occurs when somebody takes a rollback in pay, such as the nurses of the province of Alberta did and the teachers of many of the school boards, who took a 5 percent rollback in pay to comply with the Premier's suggestion that everybody attempt to help bring down the deficit. Now, what was viewed by many members of this Assembly to be harsh and unconscionable is that even with some of those pay rollbacks, it didn't work completely and some people still had to lose their jobs.

What this section will do is prevent a double prejudice. If you lose your job after you have taken a wage rollback or you have agreed to take a wage rollback, if your job ends within six months of that rollback, the compensation that you're paid as you leave that employment is based on what you were earning before the rollback.

You know, we had several situations, Mr. Chairman, where up in Fort McMurray, Alberta, people who had agreed to take the rollback were then let go three or four months later, and their severance package was based on the rolled-back amount instead of the pre-existing amount. That was wrong, and it left people feeling hurt, and it left them feeling abused.

Now, wage rollbacks are very often the last desperate attempt of an employer and an employee trying to preserve jobs. When that fails, when that doesn't work, shouldn't we have the compassion in this Legislative Assembly to say that your wages will be based on what you were earning before that rollback? The time period is only six months. If the rollback is in existence for more than six months and you lose your job, this amended section will have no applicability, but if an employee loses his job within six months of the wage rollback, then it is my respectful estimation that this section should apply and that people should have their severance based on the previous salary.

I know that other members of the Assembly will want to speak to this issue of fairness. It is an issue that the minister himself indicated might be useful to look at, but he did not do it, and he did not put it in this Bill. Tonight the opposition of this province comes forward to put into this Bill the fairness to protect people who have undergone a wage rollback.

With that, Mr. Chairman, I will take my place so that other members of the Assembly can speak to this particular first amendment on this page that's now been handed out.

MR. DICKSON: Mr. Chairman, I think this is an excellent amendment, and I support it I think in terms of the strike in the city of Calgary that occurred a number of months back by laundry workers in Calgary hospitals. The circumstances were somewhat different, but you'll remember that those laundry workers were subject, as I recall, to a collective agreement. They had been one of that group of employees in hospitals that had taken a voluntary wage rollback and then discovered they were out of a job. Now, I think there it was much longer than the six months that's the operative here, and there was a collective agreement, so they had some additional remedies. As I recall, people in Calgary and indeed people throughout the province reacted in a very strong way saying, "This isn't fair." If you have employees who in good faith enter into an agreement to adjust the terms of their employment – and there's no term more important than the amount of compensation you're getting – that should entitle you, just as an element of basic fairness, to at least some assurance that the rug isn't going to be pulled out from underneath you within a relatively short time period. Six months, I think, in the scheme of things is a reasonable time period, and one would think that it's a way of trying to balance.

I think what the Employment Standards Code is all about is trying to find some equilibrium between being fair to employers but also being fair to individual employees. We don't have to go on at length about what is often an imbalance or an inequality in the bargaining positions of employer and employee. Sometimes the generalization isn't true. Sometimes you have very small employers. We have a lot of small businesspeople who also are bound by the provisions of the Employment Standards Code, and we have to be mindful of that in whatever sort of legislation we craft to govern these kinds of relationships.

I think this proposal is a fair and measured one. I think it respects the rights and the responsibilities of employers. I think it attempts to provide some very basic kind of relief and support to individual employees, and for that reason I think it warrants support. I think there's little else to add to the very eloquent and, I thought, persuasive presentation made by my colleague from Fort McMurray. I'd encourage other members to give some thought to those days when they started out as a minimum-wage worker. Presumably most of us did at some point work for a minimum wage. Everybody else may not have had as much fun during their summers selling tent trailers as this member, but I think we all had experience working in minimum-wage jobs, low-wage jobs, and I think we had an opportunity at that time to appreciate why there's a need for this kind of protection.

So, Mr. Chairman, I support this amendment, and I encourage other members in the Assembly to support it as well.

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

MR. COLLINGWOOD: Thank you, Mr. Chairman. I rise this evening to speak in favour of the amendment as moved by my colleague from Fort McMurray and supported by my colleague for Calgary-Buffalo. I was also persuaded by the comments from

Fort McMurray about this particular amendment. He spoke about the kinds of circumstances that could arise and how in fact we have seen situations that have arisen where employees have graciously agreed to accept voluntary wage rollbacks and then found themselves in a position where their employment was terminated in any event.

I think, Mr. Chairman, that, as put by my colleague from Fort McMurray, a rollback of a wage creates a tremendous hardship on any individual who's employed in the province of Alberta, but the reason that a voluntary wage rollback is palatable at all is because what you hold onto is the belief that the job is at least secure, if nothing else, even if the wage rate is not the same.

But we all live in a world and in an environment where, you know, the prices of things continue to rise, the user fees continue to rise, and when you have a wage rollback, it just makes things that much more difficult because of existing commitments for mortgages and children and all of the expenses that families incur in day-to-day life. So why employees are prepared to accept the wage rollback is because there is some belief and some desire that there is indeed then going to be security in the job that they have. It's obviously a far better proposition to an employee when an employer comes to him and says: "You have an option. You can take a wage rollback or we have to cut our staff. You may be out of a job." It's obviously a better proposition for the employee to say, "Yes, Mr. Employer, I will agree to take the wage rollback." As my colleague from Fort McMurray indicated, while we may grasp at that straw and say that we'll accept the voluntary rollback and hope that we can hang onto the job, that's doesn't always happen. Indeed there are still circumstances that exist where employees are terminated as a result.

10:00

Now, if it's within a reasonable time frame – and the amendment speaks to a reasonable time frame of six months – where an employer finds that they are in a position where they have to terminate, then I think it is only fair, the issue here being fairness, that that employee is then entitled to benefits on termination as if the wage rollback had not occurred. I think it should also be pointed out that the amendment is very, very clear that it is when you have a situation where the employer terminates the employment of the employee. In other words, it's not a situation where the employee then says, "Well, the job security here is very poor; the job security here is very low; I can see the writing on the wall because I'm being asked to take a wage rollback," and they go hunting for other jobs and announce to the boss, "I've found something bigger and better, and I'm leaving." That's not the kind of circumstance that's covered in this particular amendment. It's only where the employee in good faith accepts the wage rollback and then finds the hardest of hardships, that the job is terminated and there is nothing there to fall back on, that that individual is then entitled to the benefits on termination at the rate prior to the rollback.

You know, again, these are the kinds of things that we're trying to build into legislation, that speak to fairness. This kind of provision in the legislation would not essentially interfere with a collective agreement, where the same kinds of things could be negotiated in a collective agreement. This is for the benefit of employees who would not have the benefit of negotiation in a collective agreement which could conceivably look at this kind of issue, because we do live in an environment and we are all subject to an environment where there are wage rollbacks occurring in the real and in the business world.

So, Mr. Chairman, I fully support the amendment as proposed by my colleague for Fort McMurray. It does speak to the issue of fairness. It recognizes real-life circumstances of those normal Albertans who get up and go to work every day, are faithful employees, do what they can for their employers, bite the bullet when they have to, accept the wage rollback, but on circumstances of termination I think there is an issue of fairness. I think that that's the reason that this kind of amendment should be supported.

Again, I would have a bit more difficulty if the window had been extended any longer. I think it's a fair window, that circumstances within six months from taking and accepting the wage rollback is a reasonable period of time within which the employer would be compelled by this amendment to offer those benefits on termination at the level prior to the rollback.

So with those comments, Mr. Chairman, I stand in my place and speak in favour of this particular amendment.

[Motion on amendment A2 lost]

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

MR. GERMAIN: Thank you, Mr. Chairman. I note from your own numbering system that the next amendment, then, would be amendment A3. This amendment amends section 56 of the minister's Employment Standards Code.

Now, section 56, to refresh the memory of the Assembly, is the section that sets out the minimum notice period you give somebody if you want to dismiss them without cause. You will see in section 56 that the minister runs out of employee protection at 10 years or more of service, in which the minimum that the minister on behalf of this government feels is appropriate is less than one week per year, or eight weeks total for 10 years of employment. I wonder how many businesspeople and how many members of this Assembly have ever been in business and would have the courage to look an employee in the eye and say to Jake or to Sally, "You've been here 10 years, but you're getting fired, and I'm paying you the minimum government payment of eight weeks." Two months, ladies and gentlemen, for 10 years of faithful employment. This Legislative Assembly ought to be ashamed of itself and ought to look at some of its own perks and benefits when we vote on legislation such as this.

Now, what is the proposal in this particular amendment that I bring forward tonight? The proposal, my friends, is a simple one. We will restructure the last line on the minister's minimum salary compensation, and we will say that you get eight weeks minimum "if the employee has been employed by the employer for 10 years or more but less than 15 years," and we will say that if you're employed for over 15 years, you get a minimum of "1 week per year." Even that, ladies and gentlemen, is in my respectful estimation miserly compensation, and I don't know how many bosses or managers would have the courage to look at an individual who has worked faithfully for them for 15 years. That would be an individual who started at age 25 and was getting dismissed when they were 40 or started at age 40 and was getting dismissed at age 55 or started at age 50 and was ending their career with a dismissal 15 years later at age 65. The minister's proposal is that they would get a minimum of eight weeks. At least in this amendment we indicate that they get a minimum of one week per year.

This is a very straightforward amendment. This amendment does not require a lot of sophisticated legal thinking. This amendment should flow from the heart. It is a commonsense,

practical amendment. You don't have to defer this amendment for learned legal opinion to see if it fits the scheme. The scheme reads very straightforward in the minister's legislation. We simply take the same scheme that the minister has adopted and expand it for employees who have been there 15 years or more. It is still not much. Frankly, I think that an employer who dismisses an employee after 15 years of faithful service and finds it in his heart to give him only the government minimum of two months really has to take a good hard look at business practices and business ethics. We have tried to follow the minister's scheme, tried not to unduly rock the boat yet provide a little extra compensation for those people who might be ending their career at a company.

Remember that the types of jobs for which these provisions provide protection are the jobs that don't have sophisticated collective agreements, that do not have large salaries where you can afford to run off and hire a lawyer and advance a case for wrongful dismissal. This would be the poor man or the poor woman working in a humble, simple job, doing the best they can to raise their family, working hard at it. After 15 years of employment, based on the minister's formula, their company would have a legal duty only to give them eight weeks of pay as a minimum. We can do better than that in this Legislative Assembly, and I suggest we start forward by doing better than that with a positive vote on this amendment tonight.

That concludes my comments on this amendment, although I know others will be moved to speak up for fairness for employees.

[Motion on amendment A3 lost]

MR. GERMAIN: We have another 32 amendments here, so if the minister is looking for timing, she should relax.

AN HON. MEMBER: How many more Adam? [interjections]

MR. GERMAIN: I'm on my feet. You asked a question; you asked: how many more?

Now, some of the hon. members may be getting sensitive and self-conscious about these amendments, but these are good quality amendments, Mr. Chairman. I remember a little anecdote. I was in here talking about orphan wells a while back, and I know the minister of agriculture, if he were here, would want to stand up and address this Assembly on some of the feedback he got after his government rejected some of the amendments that we brought forward on orphan wells a few years ago. So hon. members should listen to these amendments because some of these amendments are winners, both in legislative language and in the court of public opinion out there.

10:10

MR. DICKSON: They'll bring them back next spring anyway.

MR. GERMAIN: The hon. Member for Calgary-Buffalo says that the amendments will come back as government amendments next spring anyway, and the Provincial Treasurer I think agrees with that position because we saw that. Some of my colleagues might be able to refresh my memory on the Bill here, the social welfare Bill in which a whole . . .

MR. COLLINGWOOD: The Child Welfare Amendment Act.

MR. GERMAIN: The Child Welfare Amendment Act was full of opposition amendments.

MR. COLLINGWOOD: Wasting our time in the House.

MR. GERMAIN: Wasting time in the House. That's right.

Anyway, Mr. Chairman, I know you'll want me to speak to amendment A4, and I'm about to do that now. Amendment A4 adds section 94.1 after section 94 of the Act. Now, just to refresh everybody's memory about section 94 of the Act, this particular section of the Act relates to complaints. Complaints are made under section 125 of this particular Act, and what happens is that under section 125 of the Act

> no employer or any other person may terminate or restrict the employment of or in any manner discriminate against an individual because the individual
>
> (a) has made a complaint under this Act.

It goes on to list other types of prohibited conduct.

Now, one of the problems is that it is no good having this kind of legislative tooth if there are no jaws to bite with the tooth. What happens is that people are dismissed from their jobs because they've made a complaint. They go to the boards and the tribunals and they complain about the fact that they've been dismissed because they've made a complaint, and the employer takes the position that they were fired for all kinds of other reasons, some of which may be legitimate grounds for dismissal, such as tardiness or poor workmanship and that sort of thing. It becomes very, very hard to determine what the real reason is for the dismissal.

So, ladies and gentlemen, what this proposal is is a very important proposal. This amendment, amendment A4, that I now move, indicates that after section 94 of this Act will be added the following section 94.1, which basically says that if you're fired from a job within six months after you've made a complaint under this piece of legislation, you will be presumed to have been unlawfully dismissed unless the employer can show on a balance of probabilities that you were not dismissed because of the complaint you made.

Now, this is very fair and balanced legislation. This government already adopts as a public policy that people should not be fired for making complaints, so this section simply gives the employee a little bit of additional benefit that if the employee is dismissed within six months of making a complaint, the suspicion is going to be there that the reason he or she was dismissed was because of the complaint. The employer is going to have to work just a little harder to prove that the firing was lawful and was legitimate. So this is a good piece of social legislation in our respectful estimation. It protects people who are effectively whistle-blowers, and it is a piece of legislation that should be voted on positively by all Members of the Legislative Assembly.

I remind all Members of the Legislative Assembly that when you're out in your jurisdictions and you're knocking on doors and when the hon. Provincial Treasurer is knocking on doors in his community, you will knock on the doors of a lot more people who are employees than you will knock on doors of people who are employers. This particular piece of legislation supports the government's professed policy, and that is to protect people who are whistle-blowers, who complain under this particular Act. So if you are going to protect people who complain under this Act, let's get some real protection. Let's protect them. This amendment, which would create virtually a presumption that you've been fired because you made the complaint, helps the employee go through a very difficult time. It puts a reasonable time limit on it. If you're fired within six months after you've made the

complaint, the employer will have to show on a balance of probabilities that the termination did not relate to the action taken by the employee; namely, the action of making the complaint.

Perhaps others will want to speak to this amendment. It is a good amendment, and I urge all in the Assembly to vote in favour of it.

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

MR. DICKSON: Thanks, Mr. Chairman. Rising in support of the amendment, if one looks at section 125 in Bill 29, the Employment Standards Code, one sees there certain kinds of action which are enjoined: "No employer . . . may terminate or restrict the employment . . . because the individual . . ." Then it sets out four different situations. One would be making a complaint under the Act. The other one would be giving evidence at any inquiry under the Act. The third one would be requesting or demanding anything to which the person is entitled under the Act. The fourth one would be making a statement or disclosure that may be required under the Act.

Now, there's a reason. This really is very much part of what one might describe as whistle-blower protection. It seems to me that the difficulty is that section 125 simply left on its own tends to be a very difficult thing to enforce. It sounds nice; it sounds like a useful kind of injunction to restrain employers. But in many respects it is something of a toothless tiger, Mr. Chairman. So section 125 simply tends to be not very potent, not really very useful or effective other than the words in the Bill.

What my ever creative colleague from Fort McMurray has done is asked himself: how can we make this thing really work; how can we put some teeth into it so it's something more than just an empty kind of injunction? I think he's come up with a creative way of doing it. What it provides for, of course, is a couple of things of significance.

Once again, we're using the six-month window. It's not a year. It's not 24 months. It's not even eight months or nine months. It's six months. All we're saying is that if in fact there's a termination within six months after something has been done pursuant to section 125, there's a deeming provision. So what it addresses is the evidentiary problem that otherwise would surface. It attempts to simplify that in a way which is at once somewhat arbitrary, but the arbitrariness is modified or mitigated by the provision that the employer still can establish on a balance of probabilities. So it's really a presumptive kind of clause: it's a presumption.

In effect, if I didn't have so much respect for my colleague's drafting ability, I might suggest that maybe the amendment really should say: shall be "presumed" to be without lawful justification rather than shall be "deemed" to be without lawful justification. That's a matter, Mr. Chairman, for those lawyers that seem to have time to worry about that sort of thing. I'm more concerned with the substance of the amendment, and I'm not going to get hung up on that kind of detail. I know that my colleague, before he would have used something as unusual as the word "deemed" rather than the word I might have chosen, "presumed," would have had compelling good reasons to do that. So I just make that gratuitous observation.

Getting back to the principal part of the amendment, I think it's pretty clear that even though we may come at it with somewhat different perspectives, we all see the compelling logic and persuasiveness of this amendment. I think that there are a number of ways to skin a cat, and in this case there are a number of different ways to provide protection to employees that want to take advantage of section 125. I think this does it.

The balance of probabilities, to anybody in this Assembly who's interested at 10:20, is that burden of proof that simply says that when you look at the arguments on one side and you look at the arguments on the other, we don't have to worry about proof beyond a reasonable doubt. We don't have to look for some unbelievably high standard. We simply do what we all do, applying some common sense and the kind of balance that we all learned, hopefully, from our mothers as young children. You weigh the two things, and you find they're not perfectly balanced. There's always one decision or one explanation which seems a little more compelling than the other. To the extent an employer can show that, the employer's able to discharge that burden of a balance of probabilities, and we end up, then, with the termination being fully justified and no problem.

10:20

It seems to me that this amendment does a very delicate and a very artful kind of balancing of those competing interests. I think that in the final result it provides a measure of protection to Alberta employees they don't have now, I think a measure of protection even the hon. Provincial Treasurer would agree would make this an even more attractive place for people to migrate to, to seek employment, knowing that workers here will get a fair shake. That's really what amendment A4 is all about.

I'm very enthusiastic about supporting this amendment, and I'd encourage every other member who's here at this time of the evening to do so as well. Thanks, Mr. Chairman.

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

MR. COLLINGWOOD: Thank you, Mr. Chairman. The Member for Calgary-Buffalo certainly has my support in supporting amendment A4. Notwithstanding that the wording is "deemed" as opposed to "presumed," I'm going to support it anyway. I think this is the kind of amendment that really speaks to the real life of Albertans who find themselves caught in very difficult circumstances that they will obviously not want to be in for the most part, when you look at section 125, but nonetheless find themselves in anyway.

I think, Mr. Chairman – and I think members of the Assembly will agree with me – that there is a real fear that exists among employees in the province of Alberta. When they do something that appears to be confrontational relative to their employer, there is a tremendous and real fear that their jobs are on the line and that employers can wield that club, as it were, of termination of employment if there is confrontation of the kind that is evidenced and recognized in section 125 of Bill 29. Because of the real-life circumstances that exist out there, I think it is vitally important that members support this and give something back to employees who find themselves caught in circumstances that oftentimes are out of their control.

You know, Mr. Chairman, I look at the provisions of section 125, the kinds of circumstances that employees find themselves in simply having made a complaint under that. Those complaints will certainly for the most part, if not in all cases, be legitimate complaints against an employer relative to this code, and they have absolutely every right to do that. Yes, section 125 says that you can't discriminate against anybody if they do that, but in the real world, if we take ourselves out from under the dome, we

know that employers say, "Well, I'll simply find some other reason," and give you a termination notice for the other reason. If the amendment is passed, employers can't do that. They then have to justify that on the balance of probabilities and in fact demonstrate that the termination was with cause and was not without cause.

Making a complaint or giving evidence at an inquiry or proceeding or prosecution. Giving evidence: it's in relation to another employee, but they're called to give evidence. This goes to the comment my colleague from Calgary-Buffalo spoke about with respect to the kind of whistle-blower protection that he and my colleagues have attempted to introduce and move through the Legislature on a number of occasions, that actually and legitimately gives whistle-blower protection to individuals who are in these circumstances. So for heaven's sake, I mean, if you're giving evidence, should you have a fear that your job is on the line because you've been called to give evidence against an employer in a hearing or proceeding under the Act?

"Requests . . . anything to which the person is entitled under this Act." Yes, section 125 says: Oh, you can't discriminate against anybody who requests something that they are entitled to under the Act. Well, so that we take away that cloud, that pall that falls over an employee who is feeling in a vulnerable position relative to the employer, they know that they have the protection of this particular amendment, that they can't be let go on some nebulous or willy-nilly charge by the employer against the employee when in fact the true and real agenda of the employer is to do it to get back at that employee who spoke out against or who simply didn't comply the way the employer wanted that individual to comply.

"Has made or is about to make any statement or disclosure that may be required under this Act." So once again an employee is in a situation where the legislation compels that individual to do that, yet they have a loathsome fear that if they do, there will be retribution by the employer against that employee. So the amendment deals specifically with that in that an employer recognizes that while section 125 says that you can't discriminate, the amendment in section 94.1 says: here's how it's going to work; if you attempt to do that and follow through, you will have to on a balance of probabilities justify the termination.

[Mr. Tannas in the Chair]

I have had, Mr. Chairman, and I'm sure that other members of the Assembly have had constituents come to us, come to our offices and describe exactly these kinds of circumstances. Of course, at that point when they're coming to see you, probably in every circumstance they have already lost their job. They say: "The employer gave me some long story about my unsatisfactory performance. Funny; they never said anything about my unsatisfactory performance before. Out of the blue, because I requested information – I had to give evidence at a hearing; I lodged a complaint against the company or the employer, whatever – all of a sudden now my performance is unsatisfactory. I thought, my MLA, that they couldn't discriminate against me." I would say to that individual: they can't discriminate against you; it says so. "Well, what can you do about it?" "Well, actually there's nothing I can do about it, sir or madam, as your MLA because there are no teeth to the legislation that gives you any rights at all to do anything about it." Well, I can say: but you can sue for wrongful dismissal. And they can say: "All right; let's sue for wrongful dismissal. How much is that going to cost me?" It's going to cost you a lot, and you're going to have to hire a lawyer.

AN HON. MEMBER: Not a lawyer.

MR. COLLINGWOOD: That's right.

"But wait, MLA," he or she will say to me. "I just lost my job. I don't have any money." So we get caught every time in this vicious cycle of explaining to constituents, "Yes, you have a right, but you probably can't access that right." It's a costly procedure to sue for wrongful dismissal, to try and have some recourse to an employer who takes it out on the employee by terminating for some unsubstantiated reason that is given to that individual. This is the answer that I can give those constituents when they come to me and say: what can you do about it? Rather than saying, "There's nothing I can do about it," I can say, "There is something I can do about it because you have some rights under the legislation" if this amendment passes.

AN HON. MEMBER: And it will.

MR. COLLINGWOOD: That's right.

So with that, Mr. Chairman, I see here in this amendment an opportunity where I can be back in my constituency office and giving a better answer to those constituents who are caught in these kinds of circumstances and say to them: the employer that let you go, that terminated your employment, now has an obligation to show on a balance of probabilities that the dismissal was justified, that the dismissal was with cause, and that the dismissal was not relative to another agenda because of a complaint or statements that you have made as potentially is required under the Act in the circumstances you find yourself in. That's the answer I want to be able to give those constituents, Mr. Chairman, and that is why I am going to support this particular amendment.

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

10:30

MS LEIBOVICI: Thank you, Mr. Chairman. I, too, lend my support to this particular amendment, as I did to the other amendments that were put forward and voted down by the government, which is unfortunate. I'm not sure why, and I'm just presuming, which is probably presumptuous of me, that the government will also vote down this amendment, but as there has been no indication contrary to the fact, I'm loath to believe that indeed they may well.

When we look at some of the provisions within the Employment Standards Code, what we find is indeed an Act that is a minimum Act of standards, and across Canada the Alberta Employment Standards Code is probably one of the ones which has the least amount of protection available for employees. What this particular amendment does is it allows for employees to have some recourse if in fact they are dismissed within six months of a complaint being made by that particular employee. We just look at some of the things that we know are happening across this province. For instance, we know that there's at least one employer that docks employees if they take personal hygiene breaks. In other words, if they go the bathroom too often, they get docked pay. Now, if that employee were to make a complaint, I would wager that chances are that that employee would be shown the door very quickly, given the environment within that particular establishment.

Given that, I think this amendment is a very good amendment because it would put the onus where it belongs, and the onus would be on the employer to establish that the termination did not relate to actions taken by the employee pursuant to section 125, which allows that employee to make a complaint. For those reasons I would urge the Assembly to vote in favour of this amendment.

Thank you.

[Motion on amendment A4 lost]

MRS. BLACK: Mr. Chairman, I move that we adjourn debate at this point and report progress when we rise and report.

[Motion carried]

Bill 32
Alberta Heritage Savings Trust Fund Act

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

MR. DICKSON: Mr. Chairman, thanks very much for recognizing me. On Bill 32 I'm pleased to introduce an amendment on behalf of my colleague for Edmonton-Whitemud. The amendment's in the process of being distributed, but we have the benefit, I think, of all members knowing what is in this amendment. This is that familiar friend of the Legislative Assembly, at least this session. We might call it the law and regulations amendment. To any member that may not recall this important and valuable addition to the debate in the Assembly, what this amendment would do is something that's novel and innovative yet responsible. What is does is it provides that

> where the Lieutenant Governor in Council proposes to make a regulation pursuant to subsection (1), a copy of the proposed regulation [would] be forwarded to the Standing Committee on Law and Regulations.

That's the committee, Mr. Chairman, after every Speech from the Throne that is officially tasked – if not tasked, at least it's staffed with MLAs from both sides of the House. There's a government member, in this case the Member for Calgary-Shaw, that is appointed by motion of the Assembly to be chair of that committee. I can't recall who the vice-chairman is, but that also is a member of the government caucus.

The committee is set up, and what this specific amendment does, Mr. Chairman, is require that the standing committee be charged with examining any proposed regulation under Bill 32 to ensure that three different tests are met: firstly, that "it is consistent with the delegated authority" provided for in Bill 32; secondly, that the regulation be "necessarily incidental to the purpose of this Act;" and thirdly, that "it is reasonable in terms of efficiently achieving the objectives of this Act." The final part of the amendment simply provides that "the Standing Committee on Law and Regulations shall advise the Minister when it has completed its review of the proposed regulation" and indicate any matter to which "the attention of the minister should be drawn."

Mr. Chairman, this is the same process that's used in virtually every other province in Canada. It's used in the House of Commons. It's used at the federal level in the nation of Australia. It's used at the state level in Australia. It's used in the nation of New Zealand. It's used in the United Kingdom, and there may be some other Commonwealth countries that still have a parliamentary system of government that I've left off the list.

It's an important amendment. I think it makes compelling good sense for all of those reasons that have been argued in this Legislative Assembly on, I expect, something like 62 different occasions. It still makes good sense. I'm not counting the number of times this amendment's been put forward in relation to other Bills, numerous times since June 15, 1993.

So I encourage all members to support it on behalf of my colleague for Edmonton-Whitemud.

DR. PERCY: Two points. My colleague from Calgary-Buffalo provided a generic overview of why this amendment is important in the context of a robust parliamentary tradition. A specific reason is that when you read the Bill it does not set out in any way in the legislation itself the capital markets group or the operations committee. It sets up the oversight committee, but everything else is done through regulation. In fact, had we so wished, we would have brought in amendments that were very specific to the structure that is set out in the press release, because the correspondence between the press release and the Bill is by inference and trust. The real issue, then, is that we do need a mechanism, and having the regulations go to that committee would ensure the type of scrutiny so that we would know that what was promised and what was set out in the press release and what was stated by the hon. minister in fact would come to fruition.

This amendment is consistent with the spirit of an accountable parliamentary Chamber, but it is specifically required in this case, given that the Bill itself doesn't provide the detail about the operations committee and the like, which all will be done through regulation.

So with those comments, Mr. Chairman, I'll call the question on the amendment.

[Motion on amendment A1 lost]

THE CHAIRMAN: Are you ready for the question?

Oh, the hon. Member for Edmonton-Whitemud.

DR. PERCY: Well, in third reading it's standard practice to address the principles of the Bill. [interjection] In committee. Notwithstanding that, it's also true in third reading. Again I would just like to make the point that the Bill itself is more of a framework than other Bills that have been brought in. The structure as has been set out by the Treasurer makes sense. I support the structure, and I support the way that the various elements fit together, but I would have felt far more comfortable had the structure in fact been legislated. It was not. I certainly regret the fact that the amendment that would have at least provided us a window to see whether or not the regulations set it out as the press releases did and as the minister stated – whether or not that will come to pass.

Since that amendment has not passed, since we have not brought in other amendments, I would just urge the hon. Provincial Treasurer, then, to set this structure up as quickly as possible and stick to the structure that was set out, because it does seem to be a reasonable compromise between having private-sector participation and expertise but still retaining the concept of accountability to members of the Legislature to get that balance.

10:40

MR. DICKSON: If not, we'll come back and haunt him with more amendments.

DR. PERCY: Yes. And if not, we'll haunt him with more amendments.

So with those comments I'll call the question on the Bill.

[The clauses of Bill 32 agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE CHAIRMAN: Carried.

Bill 36
Alberta Hospital Association Amendment Act, 1996

THE CHAIRMAN: The hon. Member for Edmonton-Beverly-Belmont.

MR. YANKOWSKY: Thank you, Mr. Chairman. It's my privilege to rise and move Bill 36, the Alberta Hospital Association Amendment Act, 1996, in Committee of the Whole.

SOME HON. MEMBERS: Question.

MR. YANKOWSKY: Okay; question.

THE CHAIRMAN: The hon. Member for Edmonton-Mill Woods.

DR. MASSEY: Thank you very much, Mr. Chairman. Bill 36, the Alberta Hospital Association Amendment Act, 1996, I think has been mentioned on previous occasions as a housekeeping Bill and a housekeeping Bill that we intend to support without amendment.

I think that if we look at the objects of the Bill, the Bill renames the previous Act, the Alberta Hospital Amendment Act, to the Provincial Health Authorities of Alberta Act. This reflects the fact that the Provincial Health Authorities of Alberta is now fulfilling many of the functions of the former Alberta Healthcare Association and the Alberta Hospital Association. There is a slightly broader mandate of the Provincial Health Authorities of Alberta than existed under the Alberta Hospital Association Amendment Act in regards to hospital services.

As you go through the Bill, the changes, as I've indicated, are minor. There's a renaming of the Act, an addition of some definitions, substitutions that are needed to clean the Act up and make it consistent with the changes. One of the changes is to move from the term "health services" to "health care facilities." Again, the changes are very minor.

With that, I'd call the question.

[The clauses of Bill 36 agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE CHAIRMAN: Carried.

Bill 37
ABC Benefits Corporation Act

THE CHAIRMAN: The hon. Member for Edmonton-Beverly-Belmont.

MR. YANKOWSKY: Thank you, Mr. Chairman. I rise to move Bill 37, the ABC Benefits Corporation Act, in Committee of the Whole, and I call for the question.

THE CHAIRMAN: The hon. Member for Edmonton-Mill Woods.

DR. MASSEY: Thank you, Mr. Chairman. Bill 37, the ABC Benefits Corporation Act, of course is primarily a housekeeping Bill. We have one reservation, but we support it, and we don't intend to bring forward any amendments this evening. I think it's proper that we review the objectives of the Bill just briefly.

It's primarily a housekeeping Bill which allows the board of trustees of the Alberta Blue Cross plan to continue as a nonprofit corporation called the ABC Benefits Corporation. The purpose of the ABC corporation is threefold: to operate to participate in projects to provide related services that are designed to improve the health and the well-being of Alberta residents and the customers of the corporation; secondly, to provide and arrange for the provision of supplementary health benefit programs; and third, to continue the operation of the Alberta Blue Cross plan, subject to this Act. Those three objectives being met, the remainder of the Bill deals with the appointment and powers of the board of directors of the ABC corporation, the distribution of its assets, its financial affairs, and the Lieutenant Governor in Council's regulation-making ability.

I think with those comments, Mr. Chairman, I'll take my place. I think we have one more speaker and then the question.

THE CHAIRMAN: Okay.

The hon. Member for Sherwood Park.

MR. COLLINGWOOD: Thank you, Mr. Chairman. I also want to enter debate and to recognize some concerns that continue to persist with respect to the regulation-making power of the Lieutenant Governor in Council. I'm referring specifically to section 6 of the Bill. There are two ways in which the corporation . . .

AN HON. MEMBER: Are you sure it's the right Bill?

MR. COLLINGWOOD: Yeah, I'm sure it's the right Bill, hon. member.

. . . can dispose of all of its assets: "as a going concern" or simply as a disposition of "all or part of its property, assets, liabilities or obligations." The corporation can resolve to do that, but it can't do that without "the prior consent of the Lieutenant Governor in Council." Alternatively, under section 6(2), "the Lieutenant Governor in Council may by order direct the Corporation to dispose of all . . . of its property, assets, liabilities or obligations." So the ability as given under Bill 37 is that the Lieutenant Governor in Council can by order require the corporation to dispose of all of its assets, or the corporation can by resolution agree to dispose of all of its operations. Presumably

"any part of its operations as a going concern" would be inclusive of disposing of all of its assets "as a going concern."

Now, the reason that I raise this is because we've had a situation in another province in Canada where Blue Cross has in fact been privatized and purchased by a private insurance company. We have before us in this particular Bill all of the tools that would be necessary to make that happen in the province of Alberta. We simply would have the Lieutenant Governor in Council, the cabinet of the government, behind closed doors agreeing by order in council to privatize Blue Cross in the province of Alberta by the sale of Blue Cross to a private insurance company.

10:50

I think, Mr. Chairman, it's fair to say that Blue Cross is looking forward to this legislation because it has some of the contemporary changes that it needs to continue its ongoing efficient and functional operations, but I would venture to guess that they are obviously not interested in having Blue Cross privatized. Now, because we have in Bill 37 all of the tools necessary for the privatization of Blue Cross in the province of Alberta, I would submit to you that this is a perfect opportunity for the Minister of Health to stand in her place in this Assembly and assure this Assembly and assure all Albertans that there is no plan of this government – no plan of this government – to privatize Blue Cross in the province of Alberta, notwithstanding that the government is giving itself the necessary tools to allow that to occur.

Mr. Chairman, that is my request to the Minister of Health, because I think it's vitally important that we know we are not continuing down the same path that other provinces in Canada have gone down. These kinds of dispositions occur not when they are contemplated early on, with the change in the legislation or the regulations to allow it to happen, but through negotiation processes. All of a sudden you're down the road and there it is. But we need to know from the Minister of Health as a matter of policy whether or not there is any intention on the part of the minister to even contemplate or consider the privatization of Blue Cross in the province of Alberta. I'm looking forward to the Minister of Health giving us that assurance on the record and advising the House and advising all Albertans that there are no plans now or in the future for that privatization.

Thank you.

[The clauses of Bill 37 agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE CHAIRMAN: Carried.

Bill 24
Individual's Rights Protection Amendment Act, 1996

THE CHAIRMAN: The committee is reminded that we are considering a set of amendments as proposed by the hon. Member for Stony Plain collectively known as amendment A1.

The hon. Member for Edmonton-Avonmore.

MR. ZWOZDESKY: Thank you, Mr. Chairman. I'm happy to begin this evening's discussion of amendments to Bill 24 as proposed by the government in a very interesting move last night. As I looked at these amendments last night, I had a lot of thoughts run through my mind, and I'm going to enunciate some of those thoughts right now. So stay tuned, as the expression goes.

I want to start, first of all, by suggesting to the government that they have engaged in one good step here on a very much larger journey than just one step. The first thing that strikes me here is that they have retreated from an earlier position of wanting to annihilate the term "multiculturalism" from government policy to a position where they have now suddenly seen the light and have put the word "multiculturalism" back into a few places. I would hope that those insertions are more than just a token kind of placement. We'll see, of course, what actions follow this inclusion of the word now and what types of results those actions will culminate in.

Mr. Chairman, we know that multiculturalism is a reality in this province. Nobody's arguing over that. We know that it's important to respect all the different cultural heritages, and we know that the government has had a tradition of understanding those heritages, respecting them, and helping groups put across the positive contributions they make to our cultural heritage and to the multicultural reality in this province. I tried to receive these opening amendments with that spirit and that background, knowing full well that the government was in a little bit of trouble and that it was just a matter of time before the government did realize that we were planning to help them here with all the speeches we were making, specifically in regard to multiculturalism. So I read with some happiness the inclusion of the word. However, I was a little bit disappointed to see that they only managed to include it in the title and in two subsequent recitals, as well as in the changing of the name of the commission to the human rights, citizenship and multiculturalism commission. So we actually have come a reasonably long way because we see four references now to the term "multiculturalism" whereas before we saw none.

But what's still missing here is the fact that the multicultural contributions of our province really needed to be left standing in a separate Act that would recognize that, which is why I tabled an amendment earlier this week that would call for the abolition of section 29 of Bill 24. Mr. Chairman, I attempted to bring that forward much, much earlier last week so as not to have to go through the rigmarole of presenting other amendments that would put back the principles of multiculturalism as well as some important functions of the Multiculturalism Commission. So that was a secondary plan. I had hoped first and foremost that the government would in fact retreat much earlier than last night from its position of attempting to get rid of the word "multiculturalism" from its dictionary. Unfortunately, that didn't happen.

However, to move on, what I'm disappointed with here is that the government didn't simply take the Multiculturalism Act, look at those portions of the Act that dealt with money and matters of financial restraint and extract those, debate them separately, and leave the Act standing. That would have been a much simpler and cleaner way for this government to have proceeded with this particular issue. Nonetheless, they haven't done that, but they have listened to the outcries of the public and they have listened

a little bit to the outcries of the multicultural communities, and in the end I guess the pressure that we were putting on from the Liberal side probably helped a little bit as well. I apologize if that caused any problems internally in the caucus. I'm sure there must have been some lively discussion that took place, because I understand it did take several months to arrive at Bill 24. Of course, had they called me and invited me to come to a couple of meetings, I could have set them straight in a lot quicker time on it and avoided a lot of the difficulties that have ensued.

Nonetheless, some good things have happened, and the multicultural community has responded. That's what gave rise to all the tablings that in and amongst ourselves on the Liberal side we have been doing almost every day in this House.

Here's the point we want to talk about now. We want to talk about the clear omission still of a couple of very important fundamentals that relate to multiculturalism and specifically to the Alberta Multiculturalism Act as it still exists. One of those is the term "commitment to a policy." You see, in the original Act, Mr. Chairman, we saw the following phrase.

> Whereas it is fit and proper for the Legislature of Alberta to make a commitment to a policy that recognizes the multicultural heritage of Alberta and the contribution made by ethno-cultural groups to that heritage.

And I want to underline "the contribution." That is one of the fundamentals that we're still looking for to be included here. Later, after we've dealt with the government's amendments and I bring forward a dozen or so of my own amendments, I'd like to put in a few of these things that they have inadvertently or purposely left out, and that would be a very critical one because it exists in the original Act within the preamble portion, and I would submit that it wouldn't take too much effort for them to take that fundamental principle of the preamble in the original Act and move it over to the active directives section called functions of the commission, which exist under section 18(16)(1).

11:00

Secondly, we also would like to see the words "cultural retention" looked at again. We're not asking the government to get into the business of cultural retention. What we're simply saying is that it would be very proper for the government to include a phrase such as will be coming forward in one of my amendments, which I tabled last week as well, and that phrase is:

> to encourage respect for activities in Alberta that promote cultural retention as a positive contribution toward Canada's and Alberta's multicultural reality.

You see, it's not quite enough to simply pop in the word "multicultural" here and there in the Bill and suggest that the communities are going to somehow be appeased. It looks just a little too much like tokenism. However, in fairness, I do want to say that I will give the government a chance to explain itself and to explain its intentions here, because if they are in fact going to go through and proceed with Bill 24 with these few amendments and in the process get rid of the Alberta Multiculturalism Act, then perhaps they will entertain some meaningful amendments that I will be bringing forward during this debate either later tonight – I have some of the amendments ready to go – or perhaps next week or whenever they might like to get to them.

These amendments that they've presented, they can surely say: yes, the Liberals did their thing to expose them; yes, the multicultural community and some of the leaders of the multicultural community did their thing to bring them to the government's level of awareness. That's true, but they must also be able to say that a true and proper consultation did now take place leading up to the inclusion of these amendments. If they were to do that through a proper consultation – I don't think there's any argument to be made that one was done because clearly one was not done, at least not to the satisfaction of the hundreds of ethnocultural organizations in the province. If they were to do that, then they would come to some realization on their own that it's important to look at those types of phrases being put in. I'm talking again about the commitment to a policy about the recognition of the positive contributions that have been made and the phrase "cultural retention" so that people would feel that it's okay in Alberta to retain whatever aspects of a cultural heritage you might like within the greater Canadian context, which is what we're attempting to do here.

A public consultation process is still not too late to be done. I still think the government could do this, and they would learn a great deal from it. There are many organizations out there who have not had an opportunity to input into Bill 24, not even into the area of multiculturalism as a government policy and certainly not into the government's request to cancel the Alberta Multiculturalism Act, which unfortunately does away with some of these excellent principles that at one time used to be there. Through that process of proper consultation they would undoubtedly come to some sharp conclusions that would respond in a little deeper fashion to what the community is now starting to say.

Mr. Chairman, I will tell you, based on the phone calls that we've just received in the last I guess 24 to 48 hours, the sentiment of the multicultural community is just starting now to gain some momentum. As they read through the various amendments proposed here, I'm sure they will agree with me that these amendments are okay. There's nothing per se wrong with them, except that they don't go far enough. They don't put any meat onto the bones, as the expression goes. So that public outcry is going to continue until the government does the proper thing.

I would suggest that if there's still some level of discomfort with Bill 24 or if the government still doesn't have a clear direction set for Bill 24, they might well like to take the summer and review exactly what it is that the multicultural community might have to say to them and include some of those things in a meaningful way within subsequent amendments to the Bill and/or to some new Bill that they might create as a result of abandoning this one, letting this one die on the Order Paper. We may wind up with a separate, self-standing Act, which is still what is required. To do anything less might still send out the wrong message to the community: that the government hasn't quite grasped it.

I appreciate what the minister has been saying. I have a great deal of respect for what the minister has been saying with regard to the government's emphasis on eliminating racial discrimination and any types of racism that may exist. Nobody has a problem with that. But I would also submit that a large part of stamping out racism is to prevent it from getting started in the first place. You do that by having a very strong multicultural policy that not only recognizes that there is this cultural diversity but a multicultural policy that has some real power and some real teeth in it that put the government's position forward very clearly in support of that particular multicultural reality in Alberta. I see a small attempt being made here to do that. It's not quite enough yet.

The other thing I would ask the minister to do in his deliberations and if they do in fact get to the point where they are going to be engaging in a proper public consultation, is to seriously take a look at why it is that he's advocating the amalgamation of the Human Rights Commission with the citizenship portfolio along

with the multiculturalism portfolio, bringing it all under one larger umbrella. There are obviously some components to each of those that do have some overlap, but in the end I think they are distinct enough from each other that they don't require being lumped together. They should not be amalgamated because to amalgamate in the way that is being suggested here is also to dilute.

So I did a lot of thinking about that particular point, I've had a lot of feedback on it, and I can't come up with any answer. When I'm asked the question: why is the government amalgamating the Multiculturalism Commission with the Human Rights Commission? I can't answer that one for the government anymore. I can't buy totally that it's strictly because of a period of restraint or that it's streamlining or that it's somehow avoiding waste and duplication and so on. We all understand what streamlining and waste and duplication are all about, and we all try to avoid unnecessary expenditures. Of course we do. But that's not what this is about. We're talking about a Multiculturalism Commission who had as its particular mandate the principles that I tabled before and the active functions that I tabled before that moved multicultural policy forward in this province, didn't put it on hold, and didn't amalgamate it or dilute it with something else. To dilute is to decrease the effectiveness likely of both the Multiculturalism Commission and the Human Rights Commission.

As I was thinking about that, it occurred to me that what's really happening here is a very clever ploy at a money grab. We all know that the Human Rights Commission already has a fairly significant backlog of cases, and one way they could deal with that backlog of cases would be to engage more staff and move the caseload on and make some decisions on them. However, when you don't have enough money to do that, you have to deal with it somehow else. So it looks to me like what's happened here is that they've taken the money that was allocated for multiculturalism, cut it in half, and then diverted it over to this newly amalgamated body that would be created by Bill 24.

11:10

Now, I appreciate the educational component that is strived for here, but we've already got that happening, and we've got it happening on the preventative side of the scale. Let's not forget that when a case goes before the Human Rights Commission, that's already a problem case. I'm talking about the other side, which is preventative in nature, and that's where the Multiculturalism Commission fits in. The Multiculturalism Commission had as one of its functions to put forward the positive side of multiculturalism in a way that helped everyone understand and accept others in as full a manner as anyone would ever be capable, with the explicit understanding that the more people understood about each other the less they would fear their own differences from each other. So that money that was there in a preventative way under the Multiculturalism Commission has been suddenly transferred over to the reactive aspect or where the problems have already occurred, and that's the human rights side. That's why the two don't fit together, Mr. Chairman. They just don't fit together. It's a money grab on the one hand, I suggest, and it's a dilution of interest and effectiveness on the other. I can't see any other reason why they're doing that.

I want to comment briefly here on the inclusion of the word "multiculturalism" as is suggested under what is titled in amendment B, section 3, which is to be amended in the preamble as follows: by adding after the second recital

> Whereas multiculturalism describes the diverse racial and cultural composition of Alberta.

I'll just get off that for a minute, because what occurs to me here is that we don't need just a description. We know that, Mr. Chairman. We know that Alberta has a diverse racial, cultural composition, so we don't need to be just reminded of it here in a rather perfunctory way. What we need is for the government to tell us how it is that they're going to help further people's understanding of that concept that, yes, we are a diverse racial and cultural composition of peoples.

Is that the bell going already?

THE CHAIRMAN: It's only 20 minutes.

MR. KOWALSKI: Mr. Chairman, Bill 24 is a Bill that is being amended in 1996 in terms of what's happened in the past in the province. Interestingly enough, 1996 is the 25th anniversary of the election of a Progressive Conservative government in the province of Alberta, an event which took place in 1971.

[Mr. Clegg in the Chair]

During the election campaign of 1971 and shortly after the election campaign of 1971 there was a commitment made by the then new government of the province of Alberta that if it were elected, it would introduce in the province of Alberta a Bill of Rights, and it did. That was Bill 1 in the first session in 1972. That Alberta Bill of Rights became a mainstay that was then copied and followed by other provinces in the country of Canada, and in fact it was a number of years before even the federal Parliament of Canada would move in the direction of creating a Bill of Rights for Canada per se. John Diefenbaker had talked about a Canadian Bill of Rights in the 1960s, but it didn't really come about, and it was this government, when elected in 1971, that led with that particular new initiative.

Shortly after that Bill of Rights, Mr. Chairman, there was the introduction of the Individual's Rights Protection Act in the province of Alberta, an Act which went a great deal away in furtherance of the whole concept of understanding and tolerance in the province of Alberta.

Over the years there have been numerous debates in this particular Assembly with respect to what individuals' rights are and what protection is in terms of citizenship and multiculturalism in Alberta. This Bill 24 now with its amendments, the government amendments that were introduced yesterday and are being debated tonight, Mr. Chairman, will in fact provide another forum for the discussion with respect to this particular matter.

I think that when you talk about the human psyche and the human spirit and you talk about a province like Alberta, you have to look at and understand the history of Alberta and also then look in 1996 to see the makeup of the province of Alberta. Mr. Chairman, if there ever was a living example I think of harmony and tolerance to be found anywhere, one need only look around and look at the faces and the eyes and the skins and the colours and the genders of the individuals who are in this Assembly in 1996. When one talks about multiculturalism and one talks about citizenship and one talks about human rights, one should advance beyond the words and the talk that goes with it and actually look at the practicality of seeing what does exist in our society and what does exist in our province. I think if there's ever any living proof with respect to those three words – human rights, citizenship, and multiculturalism – a good overview of the men and women in this Assembly and the various backgrounds that now exist is really something to behold. That is the best example of

what we've been able to do in 25 years.

This Bill with the words that it has in it and this Act can lead to a lot of debate and discussion tonight, and no doubt at all we will be here next Tuesday and Wednesday and Thursday and perhaps days thereafter talking about it. The question to me, Mr. Chairman, is why. Why would we want to do that? We have a Bill. We have amendments. There could be those who would want to go among the 2.8 million people in the province of Alberta and basically stir up intolerance, stir up misunderstanding, and stir up unnecessary debate. We have tolerance in Alberta in 1996. We have understanding in Alberta in 1996.

In essence, what this Bill does is perhaps move a few boxes, Mr. Chairman, that have some funding parameters associated with them. It may move a few administrators into different kinds of boxes than what they are in today. It's a process of evolution and it's a process of change. In fact the amendments add to the enhancement of the whole question of human rights and citizenship and multiculturalism. I think we should be very, very careful that the tremendous work that has been done by so many Albertans in bringing people together in this province would not in essence unnecessarily be taken apart by the thrill of a debate in this Assembly on this particular day of May 1996 or another day of May in a few days from now.

So, my honourable colleagues, look back on what it is to be an Albertan. Look in this Assembly to see the types of people that we have in this Assembly. Look at your own constituents and ask yourself the question as you walk down the street: is there an institutionalized attack on citizenship and multiculturalism and human rights? I think not. But if hon. members . . .

Point of Order
Questioning a Member

MR. ZWOZDESKY: I wonder if under *Beauchesne* the hon. member would entertain a brief question in the spirit of good debate.

THE DEPUTY CHAIRMAN: Well, hon. member, yes or no?

MR. KOWALSKI: No. Not until I conclude, Mr. Chairman.

Debate Continued

MR. KOWALSKI: Mr. Chairman, what is wrong with Alberta today that in essence is being talked about in this Assembly on the basis of an amendment and the word in the amendment? I don't see anything wrong in my province. I'm very, very proud to see what we've been able to accomplish by caring men and women who go out of their way to make sure in fact that we advance the cause of human rights for all 2.8 million people in the province of Alberta. I see this Legislative Assembly – and all parties have been represented in it since 1971, the last 25 years. I've never heard a negative debate in this Assembly from anyone opposed to the advancement of citizenship for all citizens of our province, and I've never heard a negative debate in this Assembly from anybody ever opposed to the concept of multiculturalism in the province of Alberta.

We have a multiculturalism philosophy in Alberta that was founded in Alberta, developed in Alberta, of a unique nature in Alberta to oppose an institutionalized, formalized attack on the freedoms that many people in various parts of Canada thought were being attacked when Ottawa came in with an official program called B and B, bilingualism and biculturalism. That said there were only two. In Alberta we said there were more than only two, and we advanced that and went beyond that with the words "multicultural" and "multiculturalism."

11:20

That became adopted in other provinces in Canada after Alberta took the lead in that regard. Ottawa at various times has accepted it and recognized it, depending on the ebbs and flows of what's happening politically with so-called nationalistic aspirations coming out of the province of Quebec. There is this thread across the country now for millions and millions of Canadians who recognize and believe this. It's not an ethnic thing, Mr. Chairman. It's a cultural thing. It makes no difference what the colour of your skin is in the province of Alberta. You can seek a nomination for any political party that you want to seek a nomination for, and many, many men and women have been elected irrespective of the differences from the so-called Anglo-Saxon norm that might be found.

So what's the fear that certain people would want to generate here? Is it just a filibuster with respect to some additional words that want to come in? Is it a missing of the very basic point that's fundamental to the province of Alberta? I fear greatly, Mr. Chairman, that if the men and women in this Assembly do not come together with respect to some fundamental principles and beliefs in terms of what it means for human rights in Alberta, for what it means in terms of citizenship in Alberta, for what it means in terms of multiculturalism in Alberta – and I'm certainly not going to avow any negative motive to any hon. member in this Assembly; it is his or her right to speak in any way that they want to speak – if it's just the game that's being advanced, then in essence we also have the fear of creating misunderstanding and misconception and wrong perceptions among certain people who would like nothing better than to scrap our very sophisticated approach to multiculturalism and tolerance and harmony that we have in the province of Alberta.

What I'm saying is that sometimes the boat sails well on the waters that we have. Now, one can rock the boat and one can cause difficulties, not even understanding what the difficulties are. So if the game is simply a filibuster, Mr. Chairman, then identify it right at the start, have an hon. member stand up and start their debate with respect to this.

Mr. Chairman, I have a multicultural name. There was a point in time when somebody with my name could not get a job as an educator in the province of Alberta. That point in time was the conclusion of World War II. Prior to the end of World War II, in this province if your name was like mine, you could not teach in a school in Alberta. It wasn't an official policy by anybody, but it was a policy that was applied and applied.

Mr. Chairman, there have been many people that have worked very hard understanding what has happened in Alberta since that time and have committed themselves to ensure that there would be no disharmony and no intolerance. I fear again that unless one is very careful in this Assembly about what they say, then in essence they can give a lot of rods that can attract lightning, and you can get situations develop that are very difficult to deal with.

Mr. Chairman, I'm very proud to be an Albertan in 1996. I'm particularly proud to be a member of this Assembly in 1996. I repeat again, not to be redundant but to emphasize once again, that when I look at the various types of individuals who are in this Assembly representing a whole variety of different ethnic origins and cultures, they all come together with two defining, definite, definitive words: they are an Albertan; they are a Canadian. It makes us very unique and makes us very, very different.

Now, when I look just behind me – I'm going to turn around –

I see one of the younger MLAs in the province of Alberta, the gentleman from Calgary-Montrose, Mr. Chairman, who just a handful of years ago fled a country called Vietnam. A warring force had dealt with his country, the invasion of the imperialist French forces after 1945, all the wars that occurred, then the involvement of other forces that were there in the '60s and the '70s. When that young person left Vietnam – and some referred to them perhaps as boat people – and just a dozen or so years later can get elected in the province of Alberta in a democratic facility, that is quite incredible. I choose not to simply identify the person from Calgary-Montrose other than to say: what an example of human rights, what an example of citizenship, what an example of multiculturalism, what an example of hope, what an example, period, of what all the good there is in the province of Alberta.

So, Mr. Chairman, I'm supporting these amendments. We can hear a lot of debate with respect to what should be added or what hasn't been added. The point is that every time we discuss this matter in the Legislative Assembly, I truly believe we make additional progress in this particular matter. I sincerely hope we can make conclusive progress with respect to this particular Bill and their amendments and not go backwards for the sheer gain of extending a debate because someone loves the debate. It's time for definitive action with respect to this matter, and it's time for all of us as men and women of this Legislative Assembly to go among the people of Alberta and say, "This is what we've accomplished and this is what we've done," not walk out of here and say, "What a terrible group of people they were," that they simply didn't do this or they simply didn't do that. There will always be another day for another debate on this subject matter. At this time, in 1996, I believe that we're making some progress with respect to this matter, and I really believe that all members in fact should accept all of this.

So, Mr. Chairman, I think it's time to adjourn the debate, and I would beg leave to adjourn the debate for this evening.

THE DEPUTY CHAIRMAN: The hon. Member for Barrhead-Westlock has moved that we adjourn debate on the amendments to Bill 24. All those in favour, please say aye.

SOME HON. MEMBERS: Aye.

THE DEPUTY CHAIRMAN: Opposed, if any?

SOME HON. MEMBERS: No.

THE DEPUTY CHAIRMAN: The motion is carried.

MR. EVANS: Mr. Chairman, I now move that the committee rise and report progress.

[Motion carried]

[The Deputy Speaker in the Chair]

THE DEPUTY SPEAKER: The hon. Member for Dunvegan.

MR. CLEGG: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration certain Bills. The committee reports the following: Bill 32, Bill 36, Bill 37. The committee reports the following with some amendment: Bill 23. The committee reports progress on the following: Bill 29 and 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 DEPUTY SPEAKER: Does the Assembly concur in this report?

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? So ordered.

head: Government Bills and Orders
head: Third Reading

Bill 23
Condominium Property Amendment Act, 1996

MRS. LAING: Mr. Speaker, I would like to move third reading of Bill 23.

[Motion carried; Bill 23 read a third time]

11:30

Bill 31
Business Financial Assistance Limitation Statutes Amendment Act, 1996

MRS. BLACK: Mr. Speaker, on behalf of the Premier, it's with pleasure that I move third reading of Bill 31, Business Financial Assistance Limitation Statutes Amendment Act, 1996.

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

MR. BRUSEKER: Thank you, Mr. Speaker. I'm pleased to speak to the principle of Bill at third reading now. The Government Almost Getting Out of the Business of Being in Business Bill is probably a better name for Bill 31.

This particular Bill was introduced by the Premier with much ballyhoo about government getting out of the involvement of being in business. Unfortunately, when one reviews the different sections of the Act, of course it's simply not the case. When one reviews the Bill, one sees that really what's happened is that the government has moved a cap in place, and that cap in a number of different areas is a cap of $1 million. Of course, within the Act, as you are aware, there are a number of other Acts that the Bill subsequently also amends: the Agricultural Societies Act, the Agriculture Financial Services Act, the Alberta Opportunity Fund Act, the Feeder Associations Guarantee Act, the Government Emergency Guarantee Act, the Irrigation Act, the Livestock and Livestock Products Act, the Oil Sands Technology and Research Authority Act, and the Rural Electrification Long Term Financing Act. A number of Acts are all included in here. Of course, the Bovar Special Waste Management Corporation Act is also included in here. I thought I'd make mention of that.

AN HON. MEMBER: How much? How many millions?

MR. BRUSEKER: I believe the figure is pushing the half billion dollar mark.

DR. TAYLOR: Don't forget the Law and Regulations Committee.

MR. BRUSEKER: The Law and Regulations Committee, of course: I had to make a mention of that – glad to be reminded of

that by the Member for Cypress-Medicine Hat – the interesting thing that's happened there. Maybe the chairman should have had a deal with a percentage commission based upon the amount of money spent on Bovar, and that'd really be a valuable committee to be on.

But I digress, Mr. Speaker.

THE DEPUTY SPEAKER: Yes, you do. On the principles of the Bill.

MR. BRUSEKER: I want to return to the Business Financial Assistance Limitation Statutes Amendment Act, 1996, and talk about financial assistance. Boy, did we ever give some financial assistance to Bovar over the course of the years that it was owned by the provincial government.

MR. GERMAIN: It goes on yet.

MR. BRUSEKER: It goes on yet. Whenever we get out of it, we get to clean up the site and all that good stuff, which of course is also referred to in here.

Mr. Speaker, the Bill in my opinion quite frankly simply does not cover the detail, does not go as far as it needs to go, and doesn't address areas of concern. For example, one section that is mentioned here is the Alberta Opportunity Fund Act. Within the Bill the Alberta Opportunity Fund Act is mentioned on page 8. The Alberta opportunity fund is the fund set up to help the operations of the Alberta Opportunity Company. Now, the company has restructured itself, but again within here we have loans that can be made up to a million dollars.

Now, I remember years ago in this Legislative Assembly economic development and trade was the name of the portfolio at the time. The hon. Peter Elzinga was the minister and introduced something called success stories, introduced a list of 30 success stories, companies that have been loaned money from the Alberta Opportunity Company. When I looked at that list of 30 corporations, only one of those corporations that was one of the success stories was in fact a new corporation. I'm just taking one section here of this particular Bill, dealing with the Alberta Opportunity Company. Only one of those corporations was a start-up, was a brand-new company that actually went from nothing to seven jobs, I think it was, that were created as a result of that loan that was made. That's certainly a worthwhile thing. But the other 29 loans made by the Alberta Opportunity Company were to corporations that had already been in existence.

When I did some more analysis of those particular loans, a number of them were to purchase the property, the land upon which the building was sitting and within which the business was located. A number more of the loans were to purchase the building itself, the building that the business was located in. So the business had taken off, was going along well, and the owner decided it was time to further capitalize his business, put some money into the building and increase his equity within the total business.

Mr. Speaker, the minister at the time introduced those as tremendous success stories. He said: these are great things the Alberta Opportunity Company is doing within the province of Alberta. Yet when you looked at those different loans that had been made – and, fair enough, they have been by and large paid back or at least were not in any kind of arrears, those 30 different loans – and did an analysis of the number of jobs that were created by those 30 different loans that had been offered by the Alberta Opportunity Company and the cost per job in terms of dollars loaned, the figure came out to about $175,000 per job. I have to ask the question then: is that a useful, is that a responsible, and is that a viable way of helping to diversify our economy?

Well, what we have in this particular Bill, Mr. Speaker, is that it still says that the Alberta Opportunity Company can still go out and give loans in the neighbourhood of up to $1 million. Up to $1 million is what the Bill says. Now, if one reviews the operations of the Alberta Opportunity Company over the past few years, it wasn't too long ago that the corporation had a $34 million accumulated deficit. That deficit has since been eliminated because the government has given some money directly to the corporation, as recently as two years ago I believe it was: a cash injection of $27 million to finally eliminate the balance of the accumulated deficit. So now the Alberta Opportunity Company has no deficit on the books. Not because they've changed their operations. Not because they've streamlined or suddenly got more accurate in doing their analysis of who should get loans, how big the loans should be, what kind of collateral they should take, and so on and so on. No. They've got rid of the deficit because the government simply handed them a cheque and said: here; I'll cover your money now that you've accumulated these deficits.

Yet, within this Bill we see the opportunity for the Alberta Opportunity Company to continue making loans of up to $1 million. I thought you'd enjoy that little play on words, Mr. Speaker. [some applause] Thank you, hon. member.

You know, I have to say this, Mr. Speaker: were I the minister who was introducing success stories of the Alberta Opportunity Company, I would want to be introducing the best of the best, the ones that were really spelling out how successful this corporation had been in diversifying the economy, how successful this corporation had been in terms of developing new businesses, developing new jobs, helping businesses to grow, and so on and so forth. Well, quite frankly, when I did that analysis that I referred to earlier on of the Alberta Opportunity Company, these 30 success stories, I didn't think these were all that wonderful. Individually, the owners I'm sure were quite happy. They'd been loaned some money, they were making the payments, and so on. But from the standpoint of a provincial government: were we making any significant headway within the province of Alberta? The answer in my opinion was: not significant enough based upon the kind of exposure that we as taxpayers were facing.

There is no mention – or very rarely is there any mention – of that $35 million deficit which has simply been eliminated by the province. As recently as this year's budget estimates, the Minister of Economic Development and Tourism, under whose umbrella the Alberta Opportunity Company falls, has admitted that on an annual basis AOC will still require annual cash infusions of dollars to continue operations. Well, Mr. Speaker, the reality is that if the Alberta Opportunity Company is eventually going to turn some kind of profit, then it's got to be able to fund its own operations through the loans that it has outstanding. But when one looks again at the Alberta Opportunity Company and looks at the budget documents, one sees that the provision for doubtful loans is in fact increased. You know, that's just one within this Bill, Mr. Speaker. That's only one of those long lists, and I earlier on read you that list of corporations and subsequent pieces of legislation that are amended within this particular Bill, which is the Business Financial Assistance Limitation Statutes Amendment Act, 1996.

11:40

Mr. Speaker, when I think about the Alberta Opportunity Company having a $34 million accumulated total deficit as recently as only two or three years ago, I say to myself: at a

million bucks apiece, it sure wouldn't take them long to get back into a similar kind of situation again. It sure wouldn't take them long if they were aggressive in making loans to businesses across the province of Alberta. Make 34 loans at a million bucks apiece or thereabouts, and all of a sudden they could get themselves into the same kind of situation.

Mr. Speaker, the government has asked us to support that, and I say to myself: well, you know, it's bit of a move in the right direction in that in putting a million dollar cap on it, it's no longer an open-ended kind of funnel of money out of the Treasury to who knows where, which is what we had before. The orifice through which the dollars can pass is somewhat smaller now in that the orifice is a $1 million orifice as opposed to whatever size it had been before, and whatever size it was could have been determined simply by a vote of cabinet at any particular time. That was how we found ourselves in difficulty with some of those other situations of which I'm sure you are aware, having, in your constituency just down the road in High River, perhaps one of the most costly and largest machine sheds that the government perhaps has ever invested in in the history of the province of Alberta. Mr. Speaker, again as I said, that's just one of the pieces of legislation which is amended within Bill 31.

Now, I will say that it's a step in the right direction. Moving the dollar figure or putting in this cap of $1 million I think is a step in the right direction. But it doesn't take very long, when you start adding up those $1 million loans, before one would find oneself in a fairly deep hole potentially again. From that standpoint, I would have liked to have seen the government moving towards simply saying: "That's it. There's no $1 million cap. The cap is zero." It would solve a lot of the problems if we simply said, "No, there's not going to be anything in there that allows for these loan guarantees from government to continue." Just say "No" is all we need to have. That would have probably shortened the Bill up considerably.

The other thing that I referred to in a number of different sections is what I refer to as the out clause. There are a number of sections in this Bill that have what I refer to as an out clause that say no loan guarantee is going to be given, and then we come to that fateful word, which is "unless." We see the word "unless" appear in a number of different places, Mr. Speaker. It says: yeah, we're not going to give any money away unless these following conditions are satisfied, and if these conditions are satisfied, yup, we can still give money away.

I would have to say that when one reviews all of the loans and loan guarantees and various involvements in business that the government has been involved with over the past and look at all of these different pieces of sequential legislation that are amended through this particular piece of legislation, starting with the very first one, of course, the Financial Administration Act, and going through all of the ways and all of the different combinations and permutations through which government can still, even with this Bill, proceed to give loans, to give loan guarantees, to be involved with the purchase of shares and so on, to my way of thinking, Mr. Speaker, the reality is that the tap has been turned down a little bit. You know, a curious thing is that even if you have the tap turned down, if it continues to drip away and drip away and drip way a little bit, you can still have the bathtub fill up, and you can still have the bathtub overflow. What this does is simply slow the drip down to a trickle. It's not pouring out quite as fast as it was, but the opportunity to have that bathtub overflowing quite frankly still exists within Bill 31. For that reason, I do have some concerns about the Bill that we have before us today at third reading.

The proposals to limit all of the different financial corporations, if you will, or financial services to a maximum of a million dollars, I think, as I said, is a step in the right direction, but I guess what I'm looking for is some indication as a measure of intent from the Treasurer or from the government that the actions that will follow from the words in this Bill will continue to move in the direction that the government has said, which is that they want to get out of the business of being in business. This, as I said, will slow down how big a loan can be given at any one time, but it says nothing about the number of loans. It says nothing about the frequency of loans. It says nothing about how many loans in one year or what size of those loans, up to the $1 million mark. So what we have is something – the analogy of the bathtub that I've given, Mr. Speaker, says that there will be some slowdown here.

The other thing that is curious is that there are a number of sections that talk about a review every fifth calendar year. I guess one has to ask the question: why the review every fifth calendar year? There are a number of references to it in a number of subsequent pieces of legislation that are being amended or are proposed to be amended, assuming of course that this Bill eventually passes at third reading, that say: "Well, pretty soon every five years we're going to have to have a debate. We're going to have to have a review of loans by the Legislative Assembly." Now, I think that's certainly a reasonable sort of progress to talk about, a review of loans by the Legislative Assembly, but then one has to talk about the issue of philosophy of what does and what does not come before this Legislative Assembly.

The concept of the review of loans by the Legislative Assembly is certainly an issue that I have raised before this Assembly in the past. We have put I couldn't even guess how many motions for returns or written questions on the Order Paper asking for the details of loans and loan guarantees. We've said: "Please give us the information on Ski-Free Marine. Please give us the information on Gainers. Please give us the information on any number of corporations." What do we hear back from the Treasurer? What do we hear back from the Minister of Economic Development and Tourism? We hear something along the line of, "Well, we can't give you that information because that would be proprietary information."

Now we have in this Bill in at least half a dozen sections by just a quick scan of them once again – they are all, as far as I can tell, identical in their wording, saying that on at least every fifth year pursuant to certain sections within different pieces of legislation we're going to review those loans. Well, the obvious question then, Mr. Speaker, that one must ask is: how is it that we are going to review the loans when indeed the government will say, "Oh, gee, we can't discuss that, we can't debate that, we can't provide that information because that would be proprietary information"? So to put into legislation something that says that we're going to debate loans and then turn around and have the government say in five years' time, presumably, that we can't debate the terms of those loans because that's proprietary information makes those amendments that are being proposed today in Bill 31 useless. So if we're going to have those kinds of amendments, then we have to have a commitment from the government that in fact we will have that information.

So if the government under – oh, I don't know; let's pick one – the Rural Electrification Loan Act, which is on page 12 of the Bill, Mr. Speaker – makes a loan to the ABC REA and says, "Here we go; we're going to have new power lines put in," then we need to know what the principal is. We would need to know

what the interest rate is, what the term is, what collateral has been put up for that loan. For argument's sake let's say a million dollars. Let's say it's the $1 million maximum. We would need to know the terms of all of those issues that are of concern and are part of the loan agreement.

If the government is now willing to provide for us, if the government is going to give us all of that information for what are really, you know, in many instances relatively small loans of $500,000 up to a million dollars, then again the question that follows is: why is it that we could not have gotten those loan terms, those loan details with some of the bigger loans, the $100 million or $200 million loans that we should have had before us and before this Legislative Assembly so that we could have debated those within the Legislative Assembly on a regular basis and had full disclosure? But even today, Mr. Speaker, we still get those kinds of responses when we raise those questions about loans and loan guarantees and we say: how much, and why did you give that? Well, we need to have that information. We need to have that disclosure, and this is not part of the Bill.

11:50

MR. EVANS: Mr. Speaker, I move that we adjourn debate on Bill 31.

THE DEPUTY SPEAKER: The hon. Deputy Government House Leader has moved that we adjourn debate on Bill 31. All those in favour of this motion, please say aye.

SOME HON. MEMBERS: Aye.

THE DEPUTY SPEAKER: Opposed . . .

SOME HON. MEMBERS: No.

THE DEPUTY SPEAKER: . . . please say no, and they have. Carried.

Bill 32
Alberta Heritage Savings Trust Fund Act

MR. DINNING: Mr. Speaker, I move third reading of Bill 32.

[Motion carried; Bill 32 read a third time]

Bill 33
Victims of Crime Act

MR. EVANS: Mr. Speaker, I move third reading of Bill 33.

MR. DICKSON: Mr. Speaker, a number of observations with respect to this Bill that may be appropriate now that we're really at the tail end of the process with it. I go back; I think it was about a month before the spring legislative session started. I remember at a news conference challenging the Minister of Justice in five different areas, five areas where we thought that the province of Alberta and the government of Alberta should show some leadership. One of the areas we identified was the provision of services for victims. It was for that reason that I was pleased to see that the Minister of Justice accepted the challenge and came forward with a Bill, and there were some very positive things in this Bill. What it did was for the first time say that instead of the victim surcharge fund being way over here and the crimes compensation process being way over in another watertight compartment, what we'd try and do is integrate those two things under a single Act, and that was a positive thing. Anything that helps to consolidate services for victims of crime is a positive initiative and one that warrants support.

The Minister of Justice did some other things, however, in his Bill 33 in terms of victims of violence. He proposed that he would set up a committee that would basically have input in terms of how the victims' surcharge fund would be managed, and I guess we'll have to reserve judgment to see how effectively that operates.

I can recall, Mr. Speaker, that in the past one of the concerns that surfaced certainly in the city of Calgary was the question of adolescent prostitutes. There had been, I think, a lot of concern, and certainly suggestions had been made. I remember asking the Minister of Justice in question period: would he consider using the victims' surcharge fund particularly to assist teenage prostitutes who were attempting to leave the street but who require certain kinds of support and certain kinds of protection to be able to do that? We don't know whether this Bill is going to be able to go any direction to solve that problem. So we're in one of these familiar situations where we have to wait and see what this committee does in terms of how they're going to allocate those funds.

We hope that it's going to mean that the government is going to be more aggressive in terms of moving the money out. In the last annual report from the Department of Justice it showed that the balance in the victims' surcharge fund was something in the order of $1.6 million, and the reason for that, Mr. Speaker, is that we had been bringing in about $600,000 or $700,000 a year in terms of victims' surcharge, but the government had been very slow in paying money out. We were in this, I think, peculiar, perverse position where there was more money sitting in the fund, far more, than was going out.

In fact, we had a lot of groups that were interested in providing assistance to victims of crime, providing a range of services to victims of crime, that couldn't access those moneys. I remember the difficulty, Mr. Speaker, had been that the government for the longest time wouldn't even acknowledge what the balance in the fund was. The communications officer for the Department of Justice would keep on insisting that this member had it wrong, that the balance in the fund wasn't $1.6 million. She'd keep on saying: well, the fund only takes in $600,000 a year. Well, the intake was right, but the balance had accumulated. This had accumulated over a number of years because the Department of Justice had not been effective in terms of moving the money out of the piggy bank, out to those groups that were trying to provide assistance to victims. That was unacceptable. I don't have, no member has, the kind of assurance that I think we would want that those dollars are going to be moved out of the piggy bank and are going to be put in the hands of groups like Street Teams, like Exit, that whole range of organizations in the city of Calgary and like-focused organizations throughout this province that are trying to provide assistance not just to adolescent prostitutes but to other groups as well.

The other concern we had with this Bill – and I'd just remind members of this. There had been an amendment that had been moved in good faith and had been defeated by the government which would have looked at this notion that the minister has come forward with, which is to put a surcharge on fines for provincial offences. Now, Mr. Speaker, we've certainly had in the past, pursuant to the provisions in the Criminal Code, a victims' surcharge fund that had resulted in these funds being accumulated, but the provincial minister decided in this Bill that we were going

to have a levy, a surcharge, that would apply to provincial offences.

Now, we don't know precisely what provincial offences these are going to be. Is that potentially for a speeding ticket, any infraction under the Highway Traffic Act, a host of other kinds of driving infractions, a violation of the provincial offences Act? Any of those things now means that the judge has no discretion, as he does with the federal program. There is just going to be this mandatory surcharge, this top-up.

We had expressed some concern when the Bill was going through that we have too many people in Alberta jails because they haven't been able to pay their fines. That's why they're there, and too many of those people are aboriginal inmates. We have an overrepresentation of people who tend to not be terrifically empowered in our society, in our province. Those are the people who tend not to be able to afford to pay a fine, and they're sitting in provincial jails now.

We proposed some constructive amendments to make sure that we weren't going to swell those numbers with a whole lot of other people who simply couldn't pay fines. My colleague for Sherwood Park had moved some amendments and spoken very ably on a number of those amendments which would have provided the judge with some discretion. First, they propose to eliminate the provincial surcharge altogether but, failing that, to at least ensure that the judge would have some discretion. I think it's a mistake that we will regret as a province. I think it's a mistake that the hon. Minister of Justice will regret, because what he will find is that while attempting to achieve a very laudable objective – that is, to provide more assistance to victims services and victims services agencies – he's created a problem. We're going to see a whole lot more people in provincial jails, which are always the most expensive places to house people. That's just going to create a whole other set of problems we don't need in this province, Mr. Speaker.

12:00

I hadn't known this Bill was coming up tonight. If I had, I would have been happy to have brought copies of all the amendments. So it's simply a question, Mr. Speaker, of having to rely on a decidedly imperfect memory of those other attempts we'd made to make this Bill I think a little more effective and a little more useful to Albertans. The general philosophy had been a positive one. I think in execution we haven't been able to quite do the job with Bill 33. I'm confident it'll be back for substantial revision. I wish we could have headed that off. Perhaps before it's proclaimed, we'll see what happened with the Residential Tenancies Amendment Act, where the Act was passed in the Legislature and then not proclaimed for about four years. Maybe something like that will happen, where the government won't proclaim it right away and be able to go back and open the thing up, patch up some of the errors and some of the mistakes that appear there.

I guess I make that lament for what could have been a much stronger Bill, a Bill that would have been more focused and not such an awkward and clumsy instrument with all of the kinds of shortcomings that we find with Bill 33.

I think those are the principal concerns I've got with this Bill that I wanted to bring to your attention, Mr. Speaker, at third reading. There may also be some other of my colleagues here who have a sharper recollection than I do in terms of some of those weaknesses in the Bill, and I'd encourage them to share some of those concerns with us this evening.

Speaker's Ruling
Third Reading Debate

THE DEPUTY SPEAKER: Before recognizing anyone else, I would just remind all hon. members that we have a different kind of understanding when we come to third reading. *Erskine May* reminds us all that

> debate on third reading . . . is more restricted than at the earlier stage, being limited to the contents of the bill; and reasoned amendments which raise matters not included in the provisions of the bill are not permissible.

When we talk about amendments that may have been, second reading and committee are the places for those but no longer at third reading. So just a reminder of that.

While I'm on my feet, I'll take the opportunity to remind people that we've moved out of committee stage, so we don't have quite so relaxed a time. It's time to move away juice and colas or coffee and other kinds of things from the Assembly.

Calgary-North West, you rose.

Debate Continued

MR. BRUSEKER: Thank you, Mr. Speaker. I did want to make some comments about Bill 33, the Victims of Crime Act, and in particular to address many of my comments to one particular issue. I think that the intent of the government on this Bill is certainly in the right direction, and for that I applaud the government in moving forward on this Bill.

However, I want to address some comments, in particular with respect to something that I think should be included in the Bill. The Member for Barrhead-Westlock talked about tolerance and understanding within the province of Alberta and Albertans having that. I think something that he probably missed is compassion. Of course, one thing that Albertans do have in many cases is indeed compassion. I think what the thrust of this Bill is attempting to put forward, Mr. Speaker, is to measure compassion. We think back to last year, for example, when there were floods in the southern part of the province. Albertans from other regions responded in a compassionate fashion, and I think that's what this Bill attempts to do.

It starts off, I think, Mr. Speaker, very nobly listing principles that should be applied, and in fact the word "should" is mentioned in a number of cases as an indication of what it is that should be applied to help those individuals who through no fault of their own find themselves as victims of crime. The particular issue that I want to refer to is one I know that I've talked about with the member from Camrose, back in the days when he was the Minister of Justice, and that refers to a constituent of mine, a young chap by the name of Kent Hehr, who is unfortunately one of those victims of crime that has had to access the crimes compensation fund.

Mr. Speaker, just to refresh your memory of this particular young man, he was a student at Mount Royal College, very active within the campus, who one evening was driving home following a hockey game. In an incident that occurred in less than a blink of the eye, he was shot through the neck and ended up as a quadriplegic and unfortunately is now confined to a wheelchair. He has had to access additional funds through the Criminal Injuries Compensation Act, through the crimes compensation fund, to try to maintain a standard of life, a lifestyle that is what his parents have tried to make as normal as possible for him, given the circumstances.

Mr. Speaker, if you can possibly imagine yourself in that situation – and I would wish this on no person for any reason

whatsoever – to one morning wake up full of energy and activity and enthusiasm for life and involvement with classes and extracurricular activity and then the next morning to wake up and find that you cannot move any more than the muscles on your face and virtually nothing else, it would be a shock beyond most individuals' comprehension. To his benefit and to his parents' credit, his parents, Judy and Dick, have attempted through every means they can to provide for this young man as normal a life as they possibly could, as I said, given the situation.

Mr. Speaker, when one looks at the Bill, there are a couple of sections that deal with the determination of financial payments, financial benefits, and also the payments that would be made to an individual. When I read the Bill and I read section 13 that deals with that issue of determining financial payments, it very much seems that the onus is on the individual to prove to someone, the Crimes Compensation Board, that a certain level of payment is required. Now, the difficulty that an individual has who finds himself in this situation is trying to provide justification, trying to provide the information and have it accepted by someone who is looking at it without the same viewpoint that that individual sees him or herself in.

In the case of young Kent, the young man now in his mid-20s, his life is changed forever. One of the things I spoke of was compassion. Following that split-second incident that I referred to – as you may recall from the newspaper articles which came out of that and the subsequent court case, the person who committed the act was eventually sentenced in court, and there was a court case. The reality, Mr. Speaker, is that here we have a young man who is sentenced for life to a wheelchair. What payment is appropriate to be made to such a young man to afford him as reasonable a lifestyle as possible?

His parents found themselves in the situation that the home they were living in was not in any way, shape, or form designed to be wheelchair accessible. It wasn't a requirement at the time. Suddenly they find themselves in a situation where they have to either undertake massive renovations to their existing home or do what they did, which was to build a new home that would accommodate a wheelchair: change the flooring so that a wheelchair could move in and out, change the size of the door openings so a wheelchair could move through, and have a completely accessible home. Then there's the issue even of looking after the personal needs of an individual who has extremely limited range of motion.

12:10

The compassion that I spoke of. Albertans put forward their support in terms of financial support to the parents, to a trust fund, to be used in helping Kent to have as normal a type of lifestyle as possible. So his parents used that trust fund that was established for Kent's benefit to help Kent live in a home which from the outside, quite frankly, Mr. Speaker, with the exception of the wheelchair ramp to the front door, would look like any other home on the block on the street where they live. His parents have done absolutely yeoman service. There's simply no other way to describe what it is these parents have gone through: the emotional upheaval, the financial upheaval and so on that has gone on. But when it came time to determine these financial benefits that are referred to in this Bill, what ended up happening was some of the moneys that they had used from the trust fund were then subtracted from moneys to be paid towards Kent to help him maintain that lifestyle.

So, Mr. Speaker, the issue that I have with the Bill is that what we see in black and white here, the words themselves, don't I believe convey the kind of spirit of compassion, the spirit of generosity that is required in dealing with an individual who has experienced such a massive change in his or her life.

Mr. Speaker, the overall concept of the Bill, the idea that individuals who are victims of a crime through no fault of their own should be in some way assisted, I think is a noble goal. I support the Bill from that standpoint. What I hope that I have laid out by making my comments as I have about this young man, whom I have known since he was a student of mine as a young lad in junior high school in grade 8, whom I've watched grow to early adulthood and who now finds himself in this unique and unfortunate situation, is that I think it is a huge concern. I raise it because his parents have said to me – both of his parents indeed are teachers as well within the city of Calgary and because of their employment have been able to get additional assistance for Kent because of the fact that they are both working in a relatively good position. What happens when they are no longer able to afford that? Will there be funds for Kent?

One of the concerns I have with this Bill is that in section 15 it says that "the Minister must, subject to there being sufficient money in the Fund, continue to make the payments" that have not been paid. Well, what if the government suddenly decides: we're not going to put any money in this fund? What happens to a young man like Kent Hehr in 10 or 20 years down the road, who is getting on in the world and finds himself in a situation where all of a sudden the government says, "Gee, we're not going to fund this any longer"?

That's why I'm concerned that the spirit of compassion should be here to match the words that are printed in black and white. The words that are printed in black and white are very objective and unemotional. Unfortunately, when you're dealing with individuals who have been the victims of crime, they become very subjective and emotional. For those individuals and for this one young man that I've referred to, Kent Hehr, who is a constituent, whose parents I would say are friends of mine, I plead for them, who are not here this evening to plead their case on their own behalf.

Mr. Speaker, I hope that when the regulations are made that will flow from this Act under section 17, which says "The Lieutenant Governor in Council may make regulations" and then proceeds to outline a total of about 14 different areas under which regulations can be made, they indeed reflect that spirit of compassion and the need for those individuals who say to their parents and to their family: "I want to live in a normal situation. I don't want to be in a hospital or institutionalized situation. I want to have my home setting."

One of the things, for example, that his parents have done is that they've purchased a computer that has a voice recognition capability. It's hooked into the telephone. I can pick up the phone right now – well, he's probably asleep by now. In the daytime I can pick up the phone and phone Kent, and Kent can answer his own telephone because it's been hooked up through his computer by a technician who came in to do that at the request of his parents. Would that occur in an institution? Probably not. What would happen is that Kent would presumably be down the hall someplace, and someone would have to summon him down the hall. It would not be the same as being able to answer one's own telephone, something that you and I and all the Members of this Legislative Assembly take entirely for granted. For Kent, his parents had to make special accommodation so that something as simple as that could be accommodated.

That's a very simple, a very small point. If you start thinking

about all of the other needs that a young man like Kent would have, being a quadriplegic – and something as simple as touching his thumb to the ends of each of his individual four fingers. For Kent that is something he is no longer capable of doing. Those simple kinds of things, Mr. Speaker, are issues that the Crimes Compensation Board and those regulations that come from this Bill must give consideration to, must be included. Certainly, I would encourage the government and the Lieutenant Governor in Council that when they are making those kinds of regulations, they talk to individuals like Kent, they talk to the Premier's commission for persons with disabilities, who have that firsthand experience for whatever reason, who have the knowledge, who have the understanding, and who have the empathy of only those individuals who've had that kind of experience, tragic though it may be. They can help to build those kinds of settings and situations where individuals will be able to live a normal lifestyle.

Mr. Speaker, I think the Bill is a good beginning. I think the regulations that will flesh this Bill out hopefully will bring forward that spirit of compassion that individuals who are victims of crime need to have so that they may continue with their lives as best as they're able.

Thank you, Mr. Speaker.

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

MR. COLLINGWOOD: Thank you, Mr. Speaker. To add some comments to Bill 33 in third reading, I had the pleasure in Committee of the Whole to put forward some of the amendments that my colleague from Calgary-Buffalo spoke about, and listened intently to my colleague from Calgary-North West about his concerns relative to the compassion that will have to flow from the words on these pages in Bill 33, which is something that we can only hope will follow.

When we consider the kinds of circumstances that victims of crime find themselves in – and, of course, we often use the term "victim" – if we think about being in the shoes of someone who has been victimized, or if we have been victimized ourselves, there's a certain level of emotion and frustration that is automatically attached to being in that kind of position. Certainly what victims of crime are looking for are the kinds of things that are embodied in the principles in the Bill, that are set out in section 2 of the Bill, but again the challenge for the government is to bring life to the principles as they are embodied in section 2.

I have a concern, Mr. Speaker, in terms of the embodiment of the principles, because they're sort of broken down into two parts in the Bill. One section deals with how the Bill ought to apply relative to the principles of treating victims of crime. Another section says that "Victims should report the crime and co-operate with law enforcement" agencies. That to me, Mr. Speaker, is a simple statement of society and the way that it conducts itself. I am somewhat concerned – and I want to put this on the record – that because we have set out in this section the principles of how a government intends to treat victims, it opens the possibility that treatment may be different depending on whether you report the crime or whether as a victim you do not report the crime. I hope that when we bring these words to life, we are not going to discriminate against victims of crime on the basis of whether or not crime has been reported to the proper authorities. Nonetheless, we see it in there, and a potential for that kind of interpretation or treatment exists.

12:20

In the principle statement of how the government intends to treat victims, it makes reference to the fact that

> information should be made available to victims about their participation in criminal proceedings and scheduling, progress and ultimate disposition of the proceedings.

Now, let's bring those words to life, Mr. Speaker, and say, "Yes, indeed a victim of crime is entitled to receive that kind of information in a timely fashion." In my own constituency office I have had constituents call, frustrated about the process of getting information where they themselves have been victimized, whether it was through a break and enter or an assault or so on, but finding the whole process as it stands right now thoroughly frustrating in understanding what role they're playing in getting information about the procedures in a criminal justice system that involves them and so on.

Okay, so we agree on a principle that says that information should be made available. That is the statement of the principle, but what is extremely unfortunate is that the government continues to stand by the original wording of section 4 where it excuses itself up front if it fails to provide that information in a timely fashion. It excuses itself on "the availability of resources"; it excuses itself on "other limits" that somebody somewhere says "are reasonable in the circumstances." The legislation that is now before us in third reading is saying yes, "a victim, on request and at the earliest opportunity, is to be provided with information" about the status of the investigation or the prosecution, what role the victim is going to play, what the court procedures are, and what opportunities there are going to be for the victim to be a part of that process. That's all nicely laid out and ties in with the statement of principle, but then the government excuses itself. In no other section in the Bill does the government excuse itself for failure to do that, because it says: but we did say that it was only subject to, you know, "reasonable in the circumstances," and it was only "subject to . . . the availability of resources."

I made the comment previously, Mr. Speaker, that the government does not say, "subject to the availability of resources, we'll give remuneration to the members of the board." The government will indeed give remuneration to the members of the board, but only in terms of its relationship with the victim does the government excuse itself and say, "Subject . . . to the availability of resources."

Will we, Mr. Speaker, bring to life the principles of how the government will treat and deal with people who have become victims of crime? Or will the government excuse itself in dealing with victims of crime by saying, "We don't have the resources to deal with you." Which will it be? Will there be compassion? Will there be understanding? Or will there be, as has so often been the case with this government, priority given to dollars rather than to people? That's the crossroads we are at in Bill 33, where on the one hand the tool that's before us, the Bill that's now before us, can come to life and give compassion and understanding and involvement to victims of crime through the government. Or it can say: "We only care about the bottom line, and we only care about the dollars. Thankfully and luckily we have already excused ourselves in the embodiment of the legislation, so while we would like to give you information and extend to you compassion and understanding about being a victim of crime, we simply can't. Sorry. We'll give you compassion, but if there are any resources associated with that, we can't give you any of the resources."

I'm not suggesting that that is the result of the Bill, Mr. Speaker, but I'm saying that either of those two scenarios is going to play out depending on the way this Bill is used by the government and by the minister and why that excuse is given in section

4 and whether or not the government will bring to life the excuse in section 4 or whether or not they will bring to life the principles that are embodied in section 2.

Mr. Speaker, those are the comments that I wanted to make. I wanted to remind hon. members as we go through the Bill to recall that section 12(4)(b) was repealed by government amendment. So while we have before us the Bill that refers to the fact that peace officers who suffer injury or death "in the course of carrying out [their] duties," as it currently says, "are not eligible for financial benefits", the minister has brought forward an amendment and that has been deleted. They are now not part of that section.

Those are the comments I want to make. I hope that the minister will allow the principles of how we treat victims to come to life and not the other, as I've suggested. Those are my comments at third reading of Bill 33.

MR. WOLOSHYN: Mr. Speaker, I move that we adjourn debate on Bill 33.

THE DEPUTY SPEAKER: The hon. Member for Stony Plain has moved that we adjourn debate on Bill 33. All those in favour of this motion, please say aye.

SOME HON. MEMBERS: Aye.

THE DEPUTY SPEAKER: Those opposed, please say no.

SOME HON. MEMBERS: No.

THE DEPUTY SPEAKER: Carried.

Bill 36
Alberta Hospital Association Amendment Act, 1996

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Beverly-Belmont.

MR. YANKOWSKY: Thank you, Mr. Speaker. Yes, it's my pleasure to move Bill 36, the Alberta Hospital Association Amendment Act, 1996, and call for the question.

[Motion carried; Bill 36 read a third time]

Bill 37
ABC Benefits Corporation Act

THE DEPUTY SPEAKER: The hon Member for Edmonton-Beverly-Belmont.

MR. YANKOWSKY: Thank you, Mr. Speaker. It is my pleasure to move Bill 37, the ABC Benefits Corporation Act.

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

MR. COLLINGWOOD: Thank you, Mr. Speaker. I'm pleased to join in on debate on Bill 37 at third reading.

Mr. Speaker, some time ago, quite a while ago, actually several minutes ago we spoke to the concerns in section 6 of Bill 37, which gives the Lieutenant Governor in Council the right by virtue of this piece of legislation to order that the ABC corporation, Alberta Blue Cross, dispose of "all or part of its property, assets, liabilities or obligations". The Lieutenant Governor in Council can do that by order, or the corporation can by resolution decide it wants to do that and then seek from the Lieutenant Governor in Council consent to allow that transaction to occur.

12:30

I rose in my place at the time, Mr. Speaker, and asked the Minister of Health to rise in her place and assure the members of the Assembly and assure the people of Alberta that indeed there is no plan, there is no proposal, there is no intent, there is no consideration being given by the Minister of Health or the government of Alberta to in fact allow that to occur, notwithstanding that the abilities are there in section 6 of the Bill, and that there is no intent on the part of the government to privatize Alberta Blue Cross. Unfortunately, we did not hear from the minister on the question. I invited her to rise in her place, and I think the record will show that the minister is not on record in Committee of the Whole with respect to the question I posed. I'm happy to encourage the minister to enter into debate in third reading and indicate again that while we do have that provision now in section 6 of this Bill, we will not be following the path of other jurisdictions in Canada who have sold their Blue Cross plans and corporations to private insurance corporations. That is not what we want to see happen in the province of Alberta.

As I said previously, Mr. Speaker, I think that Alberta Blue Cross is looking forward to Bill 37 to continue its efficient and smooth operation, but I think it's fair to say that there is no desire on their part to become a private operation and be purchased or consumed by a private insurance company in the province of Alberta. That's the question that I pose to and leave with the Minister of Health. I think I've stated it clearly enough, and I hope the minister will join debate in third reading and answer the question and provide that assurance to all Albertans.

Thank you, Mr. Speaker.

[Motion carried; Bill 37 read a third time]

[At 12:33 a.m. on Thursday the Assembly adjourned to 1:30 p.m.]