

## Legislative Assembly of Alberta

**Title:** Wednesday, May 22, 1996 1:30 p.m.  
**Date:** 96/05/22  
 [The Speaker in the Chair]

head: **Prayers**

THE SPEAKER: Let us pray.

Our Father, we confidently ask for Your strength and encouragement in our service of You through our service of others.

We ask for Your gift of wisdom to guide us in making good laws and good decisions for the present and the future of Alberta.  
 Amen.

Please be seated.

head: **Introduction of Visitors**

MR. MITCHELL: Mr. Speaker, it's with great pleasure that I introduce to you and through you to Members of the Legislative Assembly the newly elected MLA for the constituency of Redwater. Her name is Mary Anne Balsillie. She will be an outstanding addition to this Legislative Assembly. [applause]

head: **Presenting Petitions**

THE SPEAKER: The hon. Member for Sherwood Park.

MR. COLLINGWOOD: Mr. Speaker, thank you. I beg leave this afternoon to introduce a petition signed by 339 residents of Sherwood Park, Strathcona county, and the Edmonton area requesting the Legislative Assembly to urge the government of Alberta

to treat Grade 1 to Grade 12 students attending Independent School the same as public school students, in regard to instructional grant funding.

THE SPEAKER: The hon. Member for Edmonton-Centre.

MR. HENRY: Thank you very much, Mr. Speaker. I, too, would like to table a petition signed by, it looks like, mostly residents of Edmonton. The petition urges this Assembly to urge the government to maintain support for Catholic schools and to oppose any amalgamation of Catholic and public schools in this province.

Thank you.

THE SPEAKER: The hon. Member for Edmonton-Glenora.

MR. SAPERS: Thank you, Mr. Speaker. Today with your permission I would like to table with the Assembly a petition signed by well over 2,000 Albertans. This petition is in support of Kristy Plotsky, and it urges the government of Alberta to allow Kristy's name to stand on both the U.S. and the Alberta heart transplant lists.

head: **Tabling Returns and Reports**

THE SPEAKER: The hon. Member for Edmonton-Avonmore.

MR. ZWOZDESKY: Thank you, Mr. Speaker. I rise to present three tablings, the first of which is the Curriculum Handbook from the Education & Technology Resources Center in Alexandria, Virginia. This excellent document deals with the future of language instruction, specifically the importance of knowing

second, third, and fourth languages in a school system.

Secondly, I present copies of two articles that appear in today's *Calgary Herald*, one of them titled "Language of protest: Heritage schools are battling to restore their provincial grants." The other one, being titled "Language schools fuel economy," by Domenico Rossi, is an excellent article. It talks about multilingual Albertans playing a key role in Alberta's economic prosperity, again underscoring the importance of heritage languages.

Finally, Mr. Speaker, at the request of the Southern Alberta Heritage Language Association I present some copies of the several hundred letters that were dropped off to the Premier yesterday at McDougall Centre written by students who are enrolled in the heritage languages program. They wanted them brought specifically to the attention of the Premier today. I'm sure he'll receive them warmly, and I pass them on in that regard.

Thank you.

THE SPEAKER: The hon. Minister of Community Development.

MR. MAR: Thank you, Mr. Speaker. I'm pleased to table today six copies of a response to Motion 178.

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

MR. YANKOWSKY: Thank you, Mr. Speaker. I rise to table 190 copies of concerns submitted by Albertans regarding the January 1995 federal task force child support formula proposal.

THE SPEAKER: The hon. Member for Edmonton-Glenora.

MR. SAPERS: Yes. Thank you, Mr. Speaker. Today I'd like to table with the Assembly four copies of a petition originally addressed to the hon. Member for Edmonton-Beverly-Belmont – for whatever reason he chose not to present it – signed by hundreds of Albertans who are concerned with the provincial government's policies regarding health care delivery, primarily nurses of Alberta Hospital Edmonton.

head: **Introduction of Guests**

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

MRS. LAING: Thank you, Mr. Speaker. I would like to introduce to you and through you to members of this Assembly four members of the ALS Society of Alberta seated in the members' gallery. ALS, or Lou Gehrig's disease as it's more commonly called, is a progressive, terminal neuromuscular disease. June is ALS month, and each member of the Assembly has received a blue cornflower, which is the symbol. Members are requested to wear this cornflower as a sign of support for all those afflicted with this devastating disease. This disease has touched many people's lives: a former member of this Assembly, the hon. Neil Crawford, and even my own family as we lost my mother-in-law to it.

I would now ask Lucille Barclay, executive director of the ALS Society of Alberta; Diane Bedard, co-ordinator; and Orville Kemaldeen, a victim of Lou Gehrig's disease, and his wife, Pat, to rise and receive the warm welcome of this Assembly.

MRS. McCLELLAN: Mr. Speaker, it is truly a pleasure for me to introduce to you and through you to members of the Assembly some 37 grade 5 students from my constituency from the Corona-

tion school. They are accompanied by teachers Toni Selzler and Donna Tupper, by parent helpers Heather Twa, Kathy Wakefield, Faith Chambers, and Sharon Waltham, by bus driver Gerald Lang – I understand it's Mr. Lang's 16th or 17th trip to Edmonton with these students, bringing them safely – and his helper today, Laurie Ramsey. I've had an opportunity to visit with these bright students in my office. I'd like to ask them to rise and receive the very warm welcome of this Legislature.

THE SPEAKER: The hon. Member for Edmonton-Centre.

MR. HENRY: Thank you very much, Mr. Speaker. I would like as well to introduce to you and through you to members of the Assembly 13 women who are in the public gallery. They're enrolled in the native women career preparation program which operates in Edmonton-Centre, my constituency. They're accompanied by their group leader/instructor Lynda Ferguson, and I would ask that they rise and receive the very warm welcome of the Assembly.

THE SPEAKER: The hon. Member for Red Deer-South.

MR. DOERKSEN: Thank you, Mr. Speaker. I'd like to introduce to you and through you to the members of the Assembly a young lady that just moved to Red Deer with her husband. Her name is Lynae Egert. She also happens to be the daughter of the hon. Member for Cypress-Medicine Hat. He wanted to point out to the Assembly that she got her looks from her mother and her brains from her father. With her also is her son Alexander Taylor Egert, and we understand that Alexander is going to be an orator like his grandfather. So we'd ask if she would rise and receive the warm greeting of this Assembly.

MR. DINNING: Mr. Speaker, I rise on behalf of the Member for Calgary-Shaw to introduce a constituent who is a friend of mine who served our PC constituency association a long time ago. He has now returned to Alberta to take advantage of the Alberta advantage after living in Ontario for three years. He's in the members' gallery, and I'd ask Brian Carnduff to rise and receive the warm welcome from members of the Assembly.

**head: Oral Question Period**

**1:40 Health Restructuring**

MR. MITCHELL: Mr. Speaker, the Alberta Law Reform Institute concluded an analysis on the legal implications of the Alberta health care cuts with respect to the Canada Health Act. Their report concludes: "Taken together, the reforms undermine the principles for which the Canada Health Act stands." Why is the Premier shifting health services from the public to the private sector, as was reported by the Alberta Law Reform Institute?

MR. KLEIN: Well, Mr. Speaker, there has been no shift. Indeed the federal government has not indicated in any way, shape, or form, other than the one area that is under dispute right now, that anything that we're doing in this province contravenes the Canada Health Act.

MR. MITCHELL: Mr. Speaker, why is the Premier shifting health care costs from government to individual citizens, as has been reported by the Alberta Law Reform Institute?

MR. KLEIN: Mr. Speaker, I guess the Alberta Law Reform

Institute is entitled to its opinion. With the exception of one particular area – and that is the area relative to facility fees – the federal government has not said in any way, shape, or form that we are in contravention of the Canada Health Act.

MR. MITCHELL: Wait till they get after Hotel de Health, Mr. Speaker.

What policy initiatives will the Premier undertake to correct the inequities in health care cuts that are hurting seniors, disabled persons, women, and rural residents, as has been reported by the Alberta Law Reform Institute?

MR. KLEIN: Mr. Speaker, as I've stated previously, we're in a period of transition. I think we have taken some remarkable steps in reducing 200 various health jurisdictions down to 17 regional boards. We have challenged the system to find better and more effective and more efficient ways of doing things.

Relative to Hotel de Health – and the leader of the Liberal opposition brought it up – I'm pleased to table with the Assembly today four copies of a letter I wrote to a constituent of Leduc. Very simply it says:

Further to our conversation of Monday night, I happened to be with this gentleman.

I wish to confirm that the Government of Alberta would not, under any circumstances, approve any health care related project that contravenes the five principles of the Canada Health Act.

Mr. Speaker, it goes on to say:

This policy applies to the proposed Hotel de Health project, as it would to any other proposal. The Government has no opinion as to whether or not the Hotel de Health project would be in contravention of the Canada Health Act, because no formal proposal for this project has been made to the Government of Alberta.

I trust this letter accurately sums up our conversation and reconfirms the Government of Alberta's support of the Canada Health Act. [Yours truly]

MR. MITCHELL: Mr. Speaker, given that we know what the Hotel de Health proposal is, that the people of Galahad know, that the people of Forestburg know, that the people of Leduc know, I wonder if the Premier could please explain to us how it is that he and his Minister of Health happen to be so ignorant of the Hotel de Health proposal?

MR. KLEIN: Mr. Speaker, that letter was copied to the federal Minister of Health, our own Minister of Health, and the chairman of the Crossroads regional health authority. We have no proposal before us. That is the simple fact. There is no proposal before us. Indeed the proponents of Hotel de Health have informed the minister that they do not intend to do anything that would contravene the Canada Health Act.

MR. MITCHELL: Mr. Speaker, given the chaos surrounding the delivery of physiotherapy services in Calgary and Edmonton, why has the Premier still not developed policies to guarantee access when physiotherapy is medically required?

MRS. McCLELLAN: Mr. Speaker, the Leader of the Opposition knows full well that physiotherapy is not included in the Canada Health Act. That is one of the problems with simply wrapping yourself in the flag of the Canada Health Act without understanding what that is. If he were truly fair and forthright, he would recognize that this includes physicians and it includes hospitals, that the Canada Health Act is a funding mechanism. It is not an

Act that guarantees health services to all Canadians. In fact, Alberta provides more health services in the publicly funded system than any other province in Canada, including Liberal provinces.

MR. MITCHELL: Mr. Speaker, to the Premier: how will the Canada Health Act principles of universality, portability, and accessibility be maintained as regional health authorities are allowed to develop diagnostic services independent and different from one another and without strong provincial leadership?

MRS. McCLELLAN: Mr. Speaker, the hon. Leader of the Opposition again is jumping the gun, is taking a proposal from a group of diagnostic imagers, who are really working hard to try and improve the system, and suggesting it's a fait accompli. I think we should commend those people in diagnostic imaging for bringing forward new ideas of how to deliver services. However, the delivery of diagnostic services will be with the regional health authorities, it will be funded through the regional health authorities, and it will be a provincial plan.

THE SPEAKER: The hon. Member for Spruce Grove-Sturgeon-St. Albert.

MRS. SOETAERT: Thank you, Mr. Speaker. The new MLA for Redwater has been door-knocking all over her constituency, and she has the most recent information on how the constituents feel about the Premier's health care policy or lack of it. Since she won't be sworn in for a few days, I would like to ask some questions on her behalf. To the Premier: how can you justify the fact that Smoky Lake hospital does not have enough doctors to keep emergency access open between 8 p.m. and 7 a.m. and on weekends?

MR. KLEIN: I will have the hon. Minister of Health supplement. There's a wonderful opportunity in Smoky Lake for a practising physician to go out there and take advantage of first-class facilities that were built by this government. I would encourage publicly any doctor to go out there and really take advantage of those facilities, to take advantage of those facilities not only to offer his or her medical expertise to the people of that particular region but to create the opportunity for people from the city to go out and have the experience of Smoky Lake – it's a beautiful, marvelous town, Mr. Speaker – and to practise medicine and perhaps take some of the pressure off the city hospitals.

Relative to the election, I would like to congratulate Mary Anne, and I say that quite sincerely. Mr. Speaker, you know, it only took us 35 months to whittle down the Liberal majority from 1,900 votes to 99, so you can imagine what one more year will do. [interjections]

THE SPEAKER: Order, hon. members. [interjections] Order. The Chair anticipates the hon. member's supplemental question.

MRS. SOETAERT: Thank you. Well, the new MLA for Redwater would also like me to ask this question. Would the Premier commit to putting an end to regional barriers like the ones that hinder the residents of Redwater from accessing the Sturgeon community health centre? Right now ambulance drivers are told to take patients from Morinville to Westlock, which is 40 minutes, rather than into St. Albert, which is 10. It's happening.

1:50

MR. KLEIN: Mr. Speaker, there are no barriers, and if the

regional health authority is putting in place barriers, I will immediately have the hon. Minister of Health investigate. The whole purpose of the regional health authorities is to break down those barriers that used to exist under the protectionism of some 200 individual health boards, the kind of boards that the Liberals support because they represent great bureaucracy and that's what the Liberal Party is all about.

THE SPEAKER: Final supplemental.

MRS. SOETAERT: Thank you, Mr. Speaker. You know what? The new MLA for Redwater would like me to ask this last question: given all the promises of home care funding, why is it that home care in Redwater is still being undermined because of understaffing and underfunding? That's happening.

MRS. McCLELLAN: Mr. Speaker, I guess I, too, look forward to the MLA for that area joining this Assembly so that some of these problems can be brought in an appropriate way to the minister. I will encourage that member, when she does take office, to work with my office, as I have encouraged all of the MLAs opposite, and in fact in many instances it works very well.

There have been \$110 million additional over the last three years to community services in this province. That's additional, Mr. Speaker. Home care funding has tripled. If there is an area that is lacking, then I believe we should address that, and I will raise it with the health authority. However, what is difficult for us is that we lack specifics.

On the issue of rural doctors or lack of doctors, I didn't hear from the hon. member what the solution is for rural doctors. What would be the solution? I have waited for solutions to come forward. Is the solution to legislate a doctor to go work in Smoky Lake? Well, that's not our style. What we would want to do is encourage them to go and work there, have the people in that community encourage them to come there and to work through the rural physician action plan, which is working, which has placed doctors in rural communities, to improve the locum program to assist that community. [interjections]

THE SPEAKER: Order.

MR. BRACKO: Unbelievable.

THE SPEAKER: It is unbelievable, absolutely unbelievable. You're setting a great example for your new recruit. Absolutely unbelievable.

The hon. Member for Cypress-Medicine Hat. Perhaps he will settle down.

DR. TAYLOR: Yes. Thank you, Mr. Speaker. [interjections]

THE SPEAKER: Do we need another holiday in question period to run out the clock for hon. members?

The hon. Member for Cypress-Medicine Hat.

### Grain Marketing

DR. TAYLOR: Thank you very much, Mr. Speaker. On Monday I met with a constituent in Foremost who expressed concern in terms of fairness in marketing wheat and barley. It appears from what he told me that he and other Alberta farmers are going to be subject to higher penalties for failure to deliver on a contract to the Wheat Board. Although perhaps there should be some

compensation to the Wheat Board, Alberta farmers incurred losses because of the Canadian Wheat Board for which compensation is not available. All my questions are to the Minister of Agriculture, Food and Rural Development. Could the minister please update the Assembly as to the status of the C and D contracts?

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

MR. PASZKOWSKI: Thank you, Mr. Speaker. Certainly an important question to the barley producers of this province. About two months ago the Wheat Board announced that they would be canceling half of the C contracts that were available to producers but would possibly be willing to go along with the D contracts. As a result barley prices in Alberta dropped approximately 50 cents a bushel immediately, because indeed the Wheat Board is the sole marketing agent for barley unless it's being sold to the feed industry. So the drop was very dramatic. As a matter of fact, it amounted to something in terms of \$70 million to Alberta producers.

A couple of weeks ago the Wheat Board announced that indeed it will be implementing penalties to those who will not be fulfilling contracts. As far as producers who are contracting through the Wheat Board, if they don't fulfill, there will be penalties imposed, somewhere in the area of as high as possibly \$25 per tonne. The interesting dilemma that the producers face is that they are subject to an additional cost of \$25 for not fulfilling their contract, yet the Wheat Board is able to drop a contract without any obligation to the producer. It seems to me and seems to many of the producers in this province that this is a rather one-sided way of doing business and indeed something that is of concern. It has been expressed on many occasions to our department as a major concern from the producers of this province.

DR. TAYLOR: This is clearly the concern of my constituent, as to why this accountability is only a one-way street clearly running against the farmer in terms of wheat and barley marketing.

MR. PASZKOWSKI: Well, Mr. Speaker, this is an unusual process of accountability. It seems to be one-sided and one that does distress us somewhat. Indeed a contract is an obligation on two parties, and in order to fulfill a contract, both parties should fulfill the arrangements within the contract. In order to be a legitimate contract, it appears to me at least that indeed there has to be an equal obligation on both parties.

DR. TAYLOR: How could greater accountability be achieved in wheat and barley marketing to favour or at least be equal in terms of the benefit to the Alberta farmers?

THE SPEAKER: The hon. minister.

MR. PASZKOWSKI: Well, thank you, Mr. Speaker. I think it's important to note that indeed Alberta farmers are not asking for the demise of the Wheat Board. What they are asking for are structural changes to the way the Wheat Board operates. What they're asking for is the option of dual marketing. Certainly there are many options that could be made available to change the Wheat Board to make it more effective to the producers of this country. The whole process that has to be established in order to develop efficiencies is to put a process of competition in place.

Competition drives efficiency. If there is no competition, there is no real need to become efficient. Therefore, we have to find ways of indeed incorporating competition within the whole process.

What we are suggesting is that perhaps the Wheat Board should be looking at buying the grain at the terminal rather than inland. This will allow the competing companies to compete inland. It will allow for the producer to be able to shop his product around and allow the producer to be able to obtain a higher value at the end of the day. The way the process stands today, the producer in this province is the sole recipient of all risk; there is no sharing of risk in this province. The producer backstops all risk that's in this province, and that process has to change.

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

### High Performance Computing Centre

MR. BRUSEKER: Thank you, Mr. Speaker. When the Premier came to office in late '92, he said that with respect to future business deals, he was going to make sure that the government wouldn't get involved in any questionable deals and have to fess up on their mistake later on. Yet one of the first moves of this new government was to give \$5 million to HPC Computing Technologies Ltd., which in turn precipitated a matching \$5 million from the federal government, all of this despite a letter of January 5, 1993, to the minister at the time from seismic data processors which says in part that

the majority of Canadian owned and operated Seismic Processing Companies are opposed to the establishment of this facility and believe that government support of this venture represents a poor investment of public funds.

My question is to the Premier. Since the industry made it clear that they didn't want this computer, why did you go ahead and buy it?

2:00

MR. KLEIN: Mr. Speaker, I would like to defer to the hon. Minister of Economic Development and Tourism.

THE SPEAKER: The hon. Minister of Economic Development and Tourism.

MR. SMITH: Thank you, Mr. Speaker. In fact the agreement was made with the federal government during November of '92. The provincial portion was signed in June '93, which indicated this government was living up to contracts made and contracts kept. The funding from western diversification was \$5 million, from Economic Development and Tourism \$5.1 million, and from the National Sciences and Engineering Research Council \$1.9 million: a total of \$12 million.

MR. BRUSEKER: I guess he doesn't know why they went ahead with it.

I'll ask, then, the minister this question: why didn't you listen to the industry and buy a parallel computer instead of the vector computer which they said wouldn't do the job they wanted you to do in the first place?

THE SPEAKER: The hon. minister.

MR. SMITH: Thank you, Mr. Speaker. In fact, I did not have the privilege of being here in late '92, at which time I was an independent businessman working in the oil industry through some

very difficult times. Had that discourse been entertained with me, I'm sure we would have had that dialogue.

MR. BRUSEKER: I don't think we're any further ahead, Mr. Speaker.

My final question is to the Premier. Since the industry told you they didn't want the computer, then the obvious question is: who did want it?

MR. KLEIN: Mr. Speaker, as the hon. minister pointed out, this was a deal that was made in I believe November of 1992.

MRS. SOETAERT: Were you there?

MR. KLEIN: No, as a matter of fact, I wasn't. The question was asked: was I there? In November of 1992, no, I was not there. As a matter of fact, all of those who were on Executive Council at that particular time and who were running for the leadership had been fully suspended of their duty and their pay pending the leadership race. So, Mr. Speaker, no, I wasn't there. It was simply the fulfillment of a contractual arrangement that had been made between WDO, the province of Alberta, and the private sector.

THE SPEAKER: The hon. Member for Lethbridge-West.

### Employment Training

MR. DUNFORD: Thank you, Mr. Speaker. My questions today are to the Minister of Advanced Education and Career Development. This government has placed a high priority on reforming welfare programs in such a way that needy Albertans increase their employability and make the transition from welfare to self-sufficiency. My questions today focus on the clients formerly on the welfare rolls and now accessing pre-employment training programs through Advanced Education and Career Development. To the minister: given that tens of thousands of Albertans are accessing programs sponsored by his department at a cost of approximately \$16 million a year, does the minister do any follow-up of the clients to determine whether these programs are successful?

MR. ADY: Mr. Speaker, yes, indeed we do follow up on all of our clients who have accessed our programs. As a matter of fact, we contact clients three months after they have left our program or completed it. Our department also does a tape match on the client with Family and Social Services to see if these clients are still working a year later.

For the year 1994-95 we found that up to 72 percent of those clients were employed or in further training at the time that they were contacted. That was at the three-month level. Up to 70 percent of the clients that were assessed were still off welfare one year later. So we continue to do these follow-ups because we want to make sure that our program worked for the clients and provided good value for the taxpayers too.

THE SPEAKER: Supplemental question.

MR. DUNFORD: Thank you. Again to the minister: has the minister any information on the type of Albertans entering these pre-employment training programs?

MR. ADY: Yes, Mr. Speaker. We do an analysis on the type of

clientele that we have. We break it down by gender. We break it down by age. As a matter of fact about 59 percent of the clients are female and about 41 percent are male. The average age is 32. The largest proportion of our clients in this category are single parents, and over 50 percent have less than a grade 11 education. About 25 percent have completed a grade 12 equivalency, and another 22 percent have some postsecondary courses or training. The majority have been out of work for one or two years. So these clients want to get back into the workforce as soon as possible, but often they need to update their education and increase their employability skills before they can really do that. Our program offers that to these clients.

MR. DUNFORD: Well, Mr. Speaker, then nearly 50 percent of the clients entering the pre-employment training programs have an education level of grade 12 or higher. Does the minister find this figure alarmingly high considering that these programs are designed to provide basic skills training for welfare clients?

MR. ADY: Well, Mr. Speaker, yes, I think that these figures are a concern, but we need to know more about these clients. Statistics can't tell us the whole story. These people are more than just numbers. There has to be a reason why these people are on welfare and needed to access our skills training programs. For example, what happened to these individuals during the period when they completed their grade 12 and then ended up back on our skills development program? Were there barriers other than their academic background that made it difficult for them to return to the labour market?

Questions like these are part of the reasons why the Premier chose to initiate a new human development strategy for this province. We'll work with the expertise from other departments, such as Family and Social Services, Health, Labour, in order to develop some of these answers and allow these people to reach their potential.

THE SPEAKER: The hon. Member for Lethbridge-East.

### Grain Marketing (continued)

DR. NICOL: Thank you, Mr. Speaker. The Member for Cypress-Medicine Hat just asked the minister of agriculture some questions about a news release last week concerning contracting with the Canadian Wheat Board. At the end of that news release the minister made reference to some suggestions that I had made earlier that he should be negotiating with the ministers from British Columbia, Manitoba, and Saskatchewan relative to a unified western position on the Canadian Wheat Board. He responded at the end of that news release with a suggestion that I should be spending more time dealing with the federal government rather than making suggestions for his department. I would like to ask the minister of agriculture: if he expects me to negotiate with Ottawa, will he sign a letter to the federal government authorizing me to negotiate on behalf of Alberta farmers within the mandate of the plebiscite that was conducted of Alberta farmers?

MR. PASZKOWSKI: Mr. Speaker, in light of the effectiveness of the agriculture critic here it would be rather time wasted to be signing any letters on his behalf. We've heard many times over how effective the Liberal opposition was going to be once the Liberal government was elected in Ottawa. This is an opportunity

for the Liberal critic to liaise with the Liberal minister in Ottawa to indeed help us attain what our producers in Alberta are wanting.

**2:10**

What this hon. member has suggested is that I should be liaising with the NDP government in Saskatchewan to achieve something that indeed we all want to work for. Now, what I had suggested is that perhaps this is an opportunity where indeed the Liberal critic could work with his Liberal minister in achieving a goal that all our producers need. This seems to me, if indeed there is such a close liaison between the provincial Liberal Party and the federal Liberal Party, to be something quite achievable.

I wasn't aware that the Liberal critic needed my permission to engage in discussions with his Liberal counterpart.

THE SPEAKER: Supplemental question.

DR. NICOL: Thank you, Mr. Speaker. I would suggest that there's a difference between discussions and negotiations.

I would like to ask the minister of agriculture: will you meet with me to discuss in confidence the current status of the Alberta/federal negotiations so that I'll be fully aware of all the negotiations between the minister and the province of Alberta farmers so that when I do talk to my counterpart in Ottawa, I won't be countermanding or in any way interfering in his negotiations?

MR. PASZKOWSKI: Mr. Speaker, I'll meet with anyone in Alberta including the Liberal critic if it will help us have the opportunity to achieve dual marketing.

THE SPEAKER: Final supplemental.

DR. NICOL: Thank you, Mr. Speaker. I would like to take this last part of my supplemental to state that I will work with the minister in any way possible to solve the problems of the Canadian Wheat Board.

No more questions. Thank you.

THE SPEAKER: The hon. Member for Calgary-Cross.

### School Achievement Tests

MRS. FRITZ: Thank you, Mr. Speaker. My questions are to the Minister of Education. There's been a lot of attention in Calgary over the past two weeks about the release of provincial achievement test results. In fact I can tell you that a recent *Calgary Herald* article has really upset my constituents in Calgary-Cross, and my colleague from Calgary-McCall tells me it's upset his constituents as well. This type of article I think is quite damaging in that it leads one to believe that all schools in northeast Calgary performed below average. I'd like to ask the minister if that is true, or are there schools citywide that perform below average and not just in northeast Calgary?

MR. JONSON: Mr. Speaker, I think I'd just like to say first of all that the importance of the achievement tests is that they are based on a standard level of performance which should realistically be expected of students at the grades 3, 6, and 9 levels; in the case of grade 3, language arts and mathematics performance, and at the grade 6 and grade 9 levels the four core subjects. It is whether or not we meet those standards that should be the focus of parents

as they discuss their individual students with the school and the school jurisdiction as they look at their overall school performance.

In direct answer to the hon. member's question, Mr. Speaker, in northeast Calgary – and I have quite a few statistics here, but I'll just mention some. Twenty-five of 38 schools with grade 3 in northeast Calgary performed at or above the average; 19 of 38 grade 6 schools at or above the average. [interjections]

Mr. Speaker, this is a direct answer to the question, but perhaps the hon. members across the way are not really concerned about the success or do not want to recognize the success of students in Calgary. I think I've answered the hon. member's question, and due to the interruption I'll sit down.

THE SPEAKER: Supplemental question.

MRS. FRITZ: Thank you, Mr. Speaker. I am pleased to hear that we have schools that are performing above average, and I'd like to ask the minister how the average school ranking that he mentioned is calculated.

MR. JONSON: Well, Mr. Speaker, the averages in the particular article which I did read – I'm just not aware of the specific way that they came up with their statistics. However, I assume – I assume – that given that we have a standard which we expect all students to reach in the design of our achievement tests, those schools reported as being average or above average were those schools that met that standard rate of performance in those core subjects and that those that were rated below average had some deficiency with respect to the overall school performance on those courses.

THE SPEAKER: Final supplemental.

MRS. FRITZ: Thank you, Mr. Speaker. In light of the Alberta Teachers' Association and the Calgary board of education recently stating that they're against the release of school-specific results, will the minister reconsider the policy of how the results are released so that stereotyping of communities does not occur?

MR. JONSON: No, Mr. Speaker. I think the approach that we're taking to reporting these results is the right way to go. It's I think a constructive approach. Our first priority – and we've always said this – is that achievement test results along with the other measures of individual student performance are best discussed at the school level between parents and teachers and the administration.

Secondly, in terms of overall jurisdiction results, we urge, recommend that school jurisdictions report on these and look at their results, and if there is remedial action that seems to be necessary, that should be taken. The department is there to assist. In terms of provincewide results or jurisdiction results under the Freedom of Information and Protection of Privacy Act, that would be required although we would be I think very willing to release them anyway without the legislation.

I think, Mr. Speaker, this will work its way out over time, because the parents, the public understand that there are many indicators of student achievement. This is one very important one, and they will be able to – I hope and I think they will – work with schools to address any deficiencies there are and improve our education system overall.

THE SPEAKER: The hon. Member for Edmonton-Centre.

### Private Schools

MR. HENRY: Thank you very much, Mr. Speaker. Some private schools in Alberta are continuing their lobby for full public funding of what essentially is private education. It was first thought that private religious schools might achieve full public funding out of the charter school legislation, but the Minister of Education, through his regulations . . . [interjections] I see a split in the government on this one.

The minister did move in terms of the charter school issue regulations to close that loophole, and I give him credit for that. I believe that fundamentally Albertans believe that public funding should be for public education, and private education should be funded privately. My question to the minister, then, with regard to the School Act. Section 46 of the School Act states:

- . . . may, without the approval of the Minister,
- (a) enter into an agreement . . . respecting the provision of educational, managerial or other services with respect to the operation of schools.

Is it the government's policy that this could include the management of a school or the operation of a full education program?

MR. JONSON: Mr. Speaker, the fair intention – and this has been, as I understand it, well communicated to school jurisdictions – is that section 46 was placed in there to allow school boards flexibility in terms of the management and operation of their school systems with respect to I suppose everything from transportation contracts to maintenance contracts, perhaps contracts in some other areas, perhaps with respect to information technology services, that type of thing.

Section 16, Mr. Speaker, is the section which clearly deals with the overall ability of a school board to operate an alternative program, which a number of school jurisdictions are using.

THE SPEAKER: Supplemental question.

MR. HENRY: The minister may not know this, but given that there are some negotiations between private schools and at least one school board with regard to using section 46 to contract the full operation of the school, would the minister be prepared to undertake to write to each school board chairman outlining what he just said with regard to the purpose of section 46 and that it is not designed to fund entire private programs?

MR. JONSON: Mr. Speaker, I will certainly check on it, but it's my understanding that that interpretation or clarification has already been clearly communicated.

2:20

MR. HENRY: Keep trying, Mr. Minister.

My last question to the minister: is it the government's policy that section 16 of the Act, which is the alternative schools section, should be used to fund what essentially is a religious-based program as opposed to an educational-based program that might have some religious overtones?

MR. JONSON: Well, Mr. Speaker, I think the hon. member across the way would very much agree that one of the key components of a public education system, which I do support, is that it be governed by a duly elected school board, elected by the overall public of the area to be served. In terms of the alternative

programs under section 16 this is a matter for public school boards to judge, to be responsible for to their overall electorate, and with respect to any alternative programs that have been approved, I would think that school boards have considered the acceptability of that very carefully.

THE SPEAKER: The hon. Member for Calgary-Currie.

### School Achievement Tests

(continued)

MRS. BURGNER: Thank you, Mr. Speaker. In the same vein of education that was discussed earlier this afternoon, the appropriate and reliable performance measures are a strategic and critical element of this government, and as a trustee I was an advocate also for the disclosure of school-based results. In fact, Calgary-Currie has a number of schools across the spectrum on the achievement results. Parents and taxpayers expect no less accountability of their education system. My questions today are to the Minister of Education. What is the objective, what are we trying to accomplish in releasing school-specific results on achievement testing?

MR. JONSON: I'd like to make two points in reply to that question, Mr. Speaker. First of all, the achievement tests that we have developed through Alberta Education I think – and I don't want to be presumptuous here – are well regarded in terms of their ability to measure performance in core areas such as mathematics, language arts, social studies, and science. Along with our achievement tests we do provide guides and assistance in terms of interpreting the results and dealing with any problems that may arise.

Now, secondly, to get to the hon. member's question, the whole point of achievement tests is that under our overall accountability and performance measures plan we want to make sure that there is a standard of achievement that can be expected across this province which all schools and all students will strive to achieve. Therefore, along with the individual teacher's own assessments and whatever assessments might be decided upon within the school or within the jurisdiction, this is an important provincial measure or reference point for teachers and students and parents across this province.

THE SPEAKER: Supplemental question.

MRS. BURGNER: Thank you, Mr. Speaker. Again to the minister: given that Edmonton has been releasing results for a number of years, how can schools prevent the problem of being ranked against other schools solely on the basis of their exam results?

MR. JONSON: Mr. Speaker, as I indicated earlier, the whole idea of the achievement results is to focus on some very important performance measures. Now, yes, in Edmonton public they have been publishing these results for some time, I think for a number of years, and as I said in answer to the previous question, I think that the experience has been that people appreciate those results being provided. They balance the results on those key measures along with the other things that they value in their students' education, and they discuss areas that they feel should be improved with the local school and with their school trustees and their school board.

In terms of the overall area of ranking, that will occur any time

that you have a set of scores and you use that magic term "average." They all might be doing very, very well. They all might be reaching the standards, but somebody's going to be above somebody else. I really think that people understand that. What they're looking at is: are these students meeting the standards; is their school environment a good one; does it have the characteristics that we value for our students? I have not seen in Edmonton at least that there's been any mass abandonment of any particular school, although, Mr. Speaker, I think there has been more discussion, more questioning, more constructive work on achieving the standards that are being set for the students of Edmonton.

THE SPEAKER: Final supplemental.

MRS. BURGNER: Thank you, Mr. Speaker. The issue is not, as the ATA would have you believe, who is capable of interpreting. The question is: what process is in place to link student achievement between the key grades of 6 and 7 and 9 and 10 where future learning without strategic grounding in education can be compromised? [interjections]

MR. JONSON: Mr. Speaker, due to some interjections from across the way, perhaps the hon. member could summarize the question for me, please. [interjections]

THE SPEAKER: Order. [interjections] Order. The question, hon. member, succinctly.

MRS. BURGNER: Thank you, Mr. Speaker. My question is: with the availability of these results what is the process in place to link students between grades 6 and 7 and 9 and 10 where their performance in their future education could be compromised because they did not reach provincial standards at that other grade level?

THE SPEAKER: Any better, hon. minister?

MR. JONSON: Mr. Speaker, I think the basic answer is that the teachers, the school administration, and the school jurisdiction have an obligation to follow through the grades the performance of students. Certainly we would view that with considerable concern and offer to provide help from Alberta Education, if necessary, to make sure that the performance of students, if they were declining from grades 3 to 6 and 6 to 9, would be addressed. This is not the intent, and that would be very much of concern to us.

THE SPEAKER: The hon. Member for Edmonton-Glenora.

#### **Out-of-country Medical Services**

MR. SAPERS: Thank you, Mr. Speaker. Albertans are appalled and very concerned that worried parents have to appeal through the media and to the public in order to secure every chance for lifesaving medical treatment for their children. Now, this is exactly the circumstances that the Plotsky family find themselves in, and this is what they have found they have to do for their 14-year-old daughter, Kristy, who suffers from a very severe and potentially fatal heart condition. My questions are to the Minister of Health. Why are there no set policies allowing family members to appear before the out-of-country appeal committee, which you just established?

MRS. McCLELLAN: The policies around the out-of-country committee were set with a lot of input from families, from family members, from actual individual patients, and from physicians. Mr. Speaker, these are medical decisions. They are reviewed on a medical basis. The hon. member opposite knows full well that that was the request: that as they are medical decisions, they be made by medical people.

There is an appeal process from that committee, and people are able to appear at that appeal process to put their case forward. Mr. Speaker, I believe this system is as fair and as transparent and as understandable as we can possibly make it.

I read with some interest the Liberal media bulletin on this issue. I guess if I had a disappointment in it, it is that again the real issue wasn't raised here, and what a wasted opportunity. The issue here is not whether it's available here or whether we can send somebody somewhere; it is the lack of organs available for use. If this information had included the real issue, which is the need for organ donations, the need for people to be aware of the need for organs – it isn't money that's stopping these transplants, Mr. Speaker. It isn't where they're listed that's stopping transplants. Truly it is the lack of organs available for use. I will implore now that people sign their organ donor card and make a difference to someone's life.

2:30

THE SPEAKER: Supplemental question.

MR. SAPERS: Thank you, Mr. Speaker. The Minister of Health had one of her officials at the press conference, and she should have reported fully to her that organ donations . . .

THE SPEAKER: Question, hon. member.

MR. SAPERS: Well, I'll have to do it as a point of order then. Point of order, Mr. Speaker.

How could the minister form a committee which makes such crucial decisions about implementing policies without ensuring . . .

MR. DINNING: Julio Gallo.

THE SPEAKER: Order.

MR. SAPERS: Is the Treasurer finished, Mr. Speaker?

SOME HON. MEMBERS: Whiner. Whiner.

MR. SAPERS: We can wait, Mr. Treasurer.

THE SPEAKER: Order.

MR. SAPERS: All right. How is it that the Minister of Health could form a committee . . . [interjections]

THE SPEAKER: Please. Let's conclude this.

MR. SAPERS: Thank you, Mr. Speaker. How is it that the Minister of Health could form a committee which makes such crucial decisions, life-and-death decisions, without first implementing a set of policies which would ensure fairness and openness in the process, including the family's right to be present during the appeal process?



MRS. McCLELLAN: Mr. Speaker, this is one of the little problems that the members opposite have. They write out their questions or somebody writes them out – I don't know what the process is – but then they have to read them. I answered that very question just before this. The family members do have an opportunity – read my lips one more time, hon. member: do have the opportunity – to appear before the appeal panel. One more time: the family members have the opportunity to appear at the appeal panel.

THE SPEAKER: Final supplemental.

MR. SAPERS: Thanks. I guess we now have a policy . . . You're very fast, Mr. Speaker.

What government policy justifies the transplant committee at the University of Alberta hospital telling the Plotskys that if they insisted on Kristy being placed on both the U.S. and the Alberta list, she would be pulled off the Alberta transplant list?

MRS. McCLELLAN: Mr. Speaker, the hon. member opposite has the opportunity in this House to raise anyone's name, to bandy their medical information about, but this Minister of Health does not have that opportunity, would not use it if she did, because I consider a person's medical information to be personal, to be private, and under legislation of the Minister of Health, confidential. That discussion will be held between the Minister of Health and the family, as it has been.

THE SPEAKER: The time for question period has expired. There is a matter that was deferred from yesterday concerning privilege. The hon. Member for Grande Prairie-Wapiti briefly stated the nature of his complaint but did not have the opportunity of developing that argument. The hon. Member for Grande Prairie-Wapiti.

#### Privilege Freedom of Speech

MR. JACQUES: Thank you, Mr. Speaker. When I rose yesterday to briefly outline the issue, I did refer to Standing Order 15, and I believe that in *Hansard* it does record the particular issue with regard to the breach that I believe has been committed.

The question has been asked of me by some of my constituents: why would I take on this issue, and why would I take it on at this time? It was interesting because I did hesitate, Mr. Speaker, bearing in mind that privilege is a very serious matter and bearing in mind that the author of the letter is indeed a very learned man who has served in this Assembly far longer than I have ever served, who is a lawyer who represents a big city, and who is a Queen's Counsel. So I recognize that it may be an uphill battle, but I believe that justice and fairness is here for all of us. [interjections] That seemed to touch a little bit of a nerve over there. I'm not sure why.

I do want to deal, if I may, with the issue that apparently precipitated the letter being written, and that goes back I believe to last Thursday, May 16, at which time I asked the Minister of Justice some questions. The questions that were reported in *Hansard* to the best of my knowledge in terms of reviewing *Hansard* very accurately captured the phraseology that I used in my question and indeed the response by the minister. In fact, it appears on pages 1934 and 1935 of *Hansard*, under the heading of Discrimination against Criminals. I was asking these questions, Mr. Speaker, on behalf of my constituents, the constituents that

elected me to serve on their behalf in this Assembly.

Following the end of question period, Mr. Speaker, the Member for Calgary-Buffalo rose on a point of order, and he cited 23(h), (i), and (l), according to *Hansard*, and he went on to basically debate what he perceived to be a debatable issue on the basis that he was alleging that my comments or my questions somehow were attributable to his amendments. Prior to having an opportunity to rise to speak to that, the Speaker rose and pointed out, no doubt in your wisdom, sir, that indeed that was an item of debate and that it really didn't have any issue with regard to a point of order in terms of section 23 of Standing Orders.

As I outlined yesterday, Mr. Speaker, the letter that was filed yesterday with the House and tabled was noted to have been sent and received at approximately 5:40 p.m. on Friday, May 17. Our offices were closed at that point, particularly in Edmonton, which I understand is where this was sent, and staff were not present. As a result of that, I did not see the letter until approximately 10:30 a.m. this Tuesday last, the 21st.

When I received the letter, Mr. Speaker, I had some concerns quite frankly at the outset as to whether the letter was bogus, that indeed I was being the subject of some practical joke by one of my colleagues. Indeed, when I re-read it a second time, I realized that that was not the case and that indeed it was a bona fide letter. Subsequent to that, I discussed it with some of my colleagues to find out whether indeed any of them had ever received such a letter with that type of wording in it, and I could find no precedent amongst my colleagues.

With that, Mr. Speaker, I did file the notice with your office, written notice, at about 12:45 p.m., and approximately 30 minutes later or in that time frame I directed a copy by fax to the member.

Mr. Speaker, I think it's important that that backdrop be established, because the whole issue in terms of what gave rise to the letter goes back to the questions that were asked by myself representing my constituents last Thursday. So that is the essence of what the letter itself is attempting to address.

The question, then, is: well, what gives rise specifically to the point of privilege? I would like to refer to the letter, Mr. Speaker. Bear with me for a minute here. The letter consists of six paragraphs. The first paragraph is probably one of debate, because it talks about statements which are "false and misleading." If the member had raised it as a point of order last Thursday, I'm sure that you could have dealt with that in the appropriate manner under 23(h), (i), and (j) as to whether indeed that was even parliamentary language. Paragraphs 2, 3, and 4 go on to talk about the member's concerns in terms of rebuttal on the issues of debate, which I'm not going to get into here because they're not relevant.

#### 2:40

What is relevant, Mr. Speaker, is the fifth paragraph:

I respect your right of free speech but I cannot ignore your outrageous comments. I request that you forthwith apologize for the defamatory statements you made on May 16, 1996. Failure to do so will result in further action without notice to you.

Please govern yourself accordingly.

Mr. Speaker, the thing that went through my mind as I read that and reread it was: was there indeed a threat? Was there indeed some form of intimidation being offered, that unless I did something I would suffer some consequence that would be initiated by the member?

In reading that and in looking back in terms of prior items, I refer to *Beauchesne* citation 24. There's a rather lengthy dissertation with regard to the definition of privilege, but I think

that some of the most important parts that refer to the issue that I am raising at this time is where it says that

parliamentary privilege is the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by Members of each House individually, without which they could not discharge their functions and which exceed those possessed by other bodies or individuals.

So again I look at that in my nonlawyer mind trying to come to grasp with that, understand it, versus the wording in the letter that said, "Failure to do so will result in further action without notice to you."

I then, Mr. Speaker, referred to – because this was ringing a bell. It seemed like *déjà vu*: have I not heard something similar to this before? As I went back through *Hansard*, I recalled that there was a point of privilege that had been raised several months ago, back in March, by the opposition, and I believe it was by the Leader of the Opposition.

MR. SAPERS: Be careful who you get into bed with, Wayne.

MR. JACQUES: What was that, member? Would you repeat that?

MR. SAPERS: Get on with it. I said: be careful who you get into bed with.

MR. JACQUES: Oh, thank you; I don't need any advice from you, Mr. Socialist.

Anyway, Mr. Speaker, as I went back over *Hansard* and read that, then we came to the whole issue of that point of privilege that had been raised. The point of privilege that had been raised really centred around a third party, in this case a lawyer, making a representation to a member of this House, who I believe was the leader or is the Leader of the Opposition. Is he still the Leader of the Opposition? I believe he is. The whole issue was whether there was a threat of some form of action that in some way would jeopardize the privilege of that member.

Without going through the whole issue that's in *Hansard* – and I could stand here and raise different quotes, but I'm sure, Mr. Speaker, that you will be referring to that. I recognize that it was dealing with a third party, but the principle was the issue to in some way, through a process of a written letter, intimidate by the use of wording that would suggest that if that member wasn't careful, some action would be taken against him. In fact, in that specific case it was referring to legal action in a very broad definition. Nevertheless, the issue of action and the threat of action seemed to be the common thread that appeared to be used by yourself in terms of your adjudication.

Mr. Speaker, I had a hard time in the last 24 hours, quite frankly, dealing with this issue in terms of: what did the member mean by action? Certainly if it was action of debate in terms of, say, an issue, then that quite clearly is within the parameters of this House and really wouldn't be subject to the letter. Was it the issue of legal action? Of course not, because legal action he knows he cannot. So what type of action would it be? Should I call my wife and say: "Beef up the security system. Some action is going to be taken"? Get a German shepherd dog out there because the member is threatening action? I mean, do I go to my constituents and say that I'm sorry I can't ask any questions unless I get the permission of that member because I may receive another threat of action?

There are a lot of issues here. I can get passionately involved, Mr. Speaker, but I will try to maintain objectivity. The issue is:

"the law of contempt of Parliament." That is the basic issue that we are dealing with here. The basic issue that I see is whether that letter and more particularly the language in that letter from the hon. Member for Calgary-Buffalo to myself was indeed a reflection of "the law of contempt of Parliament." I believe it is, and I believe it is as outlined, for example, in section 26 of *Beauchesne*.

Thank you, Mr. Speaker.

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

MR. DICKSON: Thanks very much, Mr. Speaker. I'd received a copy, I think yesterday, of the handwritten note from the hon. Member for Grande Prairie-Wapiti to yourself indicating that he wished to raise this question relative to the letter that I had forwarded to him. Clearly I acknowledge that I authored the letter and communicated it to that member at his office here attached to the Assembly. I appreciate your courtesy, Mr. Speaker, when the matter was raised yesterday, in having the matter deferred until I could be here and respond to it.

I propose to come at this in two parts, if you will. The first one is talking about the letter itself and then, secondly, talking about the authorities that I respectfully submit apply here and give direction to you, sir, in the first stage of a Standing Order 15.

With respect to the letter, Mr. Speaker. The letter is from a member of the Assembly. It's not from a lawyer. It's not from some outside agent. It's from a Member of the Legislative Assembly. On reflection, you know, this could be exactly the same kind of communication that a member can and will from time to time scribble out when he takes issue with what another member has said in debate. I put mine in typewritten form because I wanted to be very clear in terms of the concerns that I had with what I believed to be then and believe to be today outrageous characterization of comments made.

In response to the member's comments, if in fact one looks at the exchange in question period on May 16, page 1935 in *Hansard* – it starts actually at the bottom of page 1934:

Mr. Jacques: Mr. Speaker, given that the federal Liberal government is working on legislation to continue to keep offenders like Clifford Olson incarcerated, will the minister confirm that he will not bring forward legislation to protect convicted criminals, as suggested by the Liberal opposition?

It's mischievous for the hon. member to suggest that there was no reference to the Liberal opposition in his question-and-answer exchange.

**2:50**

In fact, if we go to the letter, what I attempted to do was identify the statements that I felt were false and misleading and go through in some detail and indicate why I thought they were false and why I thought they were misleading. As we deal in the letter, you'll see that the ideas in the Liberal draft amendments that had been tendered I think on April 3, 1996, in fact reflected the Equal in Dignity report, the unanimous recommendations of the Premier's own task force.

Also, if we look at the letter I sent, there's no reference to any action outside the Legislative Assembly. There's no reference to commencing an "action" with a capital A; there's no talk about a lawsuit. It says, as the member suggested:

I request that you . . . apologize for the defamatory statements you made on May 16, 1996. Failure to do so will result in further action without notice to you.

Now, the short answer would be this. We're dealing with a

letter from one MLA to another; it's private correspondence. I acknowledged the member's "right of free speech," which of course he has in the Assembly, in the ultimate paragraph. There are 114 Standing Orders, and to back that up, there's a large volume entitled *Beauchesne's* parliamentary procedure. I wanted to communicate to this member in the clearest and most unambiguous way I could that I was going to resort to whichever of those Standing Orders would allow me to be able to stand and challenge what I felt to be false and misleading statements.

In fact, Mr. Speaker, you will recall that I stood on a point of order immediately after question period because of my concern with the comments that had been made. I spoke at page 1940 and was getting to point 2, and then you intervened, Mr. Speaker. You said that you regretted to interrupt, "but we seem now to be descending into a debate over amendments to Bill 24." You said – and I think this is significant – "the hon. member should have an opportunity to elaborate on those points," referring to me, "in debate in committee," because it was put on notice that Bill 24 would come up later on Thursday. Well, it didn't come up later on Thursday, and I didn't have an opportunity to raise those concerns, to attempt to refute what I felt were very misleading statements that had been made in question period.

Now, with respect to the Standing Orders, it seems to me that within the Assembly any member can access any of those tools to the extent allowed by the Speaker, the Chairman, whichever is appropriate, to deal with statements that we want to challenge in the House. I thought the fair and courteous thing to do to the hon. member was to give him written notice of my concern, to attempt to set out the set of facts as I understood them, and give him an opportunity to respond to that. Doing it in written form I thought would give him that opportunity.

Now, I want to be very clear that I've never communicated to this member any suggestion of taking action outside the Assembly. I have not asked a lawyer to send a letter on my behalf to raise these concerns. If we look at the authorities, I'd submit that the most persuasive authority in this Assembly is Joseph Maingot's text *Parliamentary Privilege in Canada*. The entire text is devoted to discussing the whole business of parliamentary privilege. I want to specifically refer you, Mr. Speaker, to page 13 where he talks about: "Rights of members are subject to procedures of House." He says this on page 13; it's but a brief paragraph:

Because of its nature, a true question of privilege should arise in the House only infrequently. To constitute "privilege" generally there must be some improper obstruction to the member in performing his parliamentary work in either a direct or constructive way, as opposed to mere expression of public opinion or of criticisms of the activities of the members (for example, threatening a member for what he said in debate, contemptuous reflections on members, allegations of improper conduct during a proceeding in Parliament, or allegations that a chairman was biased).

It seems to me that the very strongest position that the hon. member would have, using my letter, would be that the letter would constitute a threat to a member from another member for what he said in debate. What's clear in Joseph Maingot's text is that that's a point of order; it's not a point of parliamentary privilege. This is entirely distinguishable from the situation that the hon. member referred to, the Hotel de Health thing, where the letter came not from a member of the Assembly challenging what another member said, which is what is in the case at bar, but in fact it was a third party, a professional litigator, sending a letter complaining and threatening action in a very expressed fashion.

That's not what happened here.

If there's any ambiguity, I want to be as clear as I can this afternoon. It was never my intention and continues not to be my intention to seek any recourse outside this Assembly, outside the Standing Orders, outside the authority of *Beauchesne's*, but within those authorities I would think that the Speaker would want to protect the right of me or any member to be able to challenge as aggressively as the rules permit what is felt to be a false and misleading statement.

I've listened to the member's presentation. I took note of the fact that he had to sit and ask himself: was there a threat; was there some kind of implied menace in this? It would seem to me that if in fact he has to ask himself the question, it would suggest that he didn't take it as anything more than a communication from a member who is concerned about a statement that had been made. Unlike the kind of message that just goes back and forth, I wanted to take the time to set out my reasons as clearly as I could, and that's the purpose of the letter. I didn't communicate the letter to you, Mr. Speaker, or other members because I saw it as a private communication with that member. I wanted him to know that the next time he stood up in the House to make that kind of threat, that kind of innuendo, that kind of misleading statement, I would challenge him on it. I feel that very strongly. I think it would have been irresponsible not to have made that stand given the context of the statements as they were made last Thursday.

So for all of those reasons but most importantly because of the authority of Mr. Maingot's work, *Parliamentary Privilege in Canada*, I think that all one could say is that it ought to have been raised as a point of order if the member felt aggrieved. He chose not to do so, and it seems to me he's forfeited . . . [interjections] Mr. Speaker, I think it was a point of order. If he wished to raise that, then we would deal with it in that fashion. I think that clearly it is not a question of privilege.

Those are the submissions I wanted to make. Thanks for your patience.

MR. EVANS: Mr. Speaker, I'm going to preface my remarks by making the statement that I believe the hon. Member for Grande Prairie-Wapiti has clearly made out a prima facie case of privilege. I was quite concerned when I read this outrageous letter from Calgary-Buffalo dated May 17. I had hoped that there was some redeeming information that would be provided today to that letter, but I'm even more concerned about this matter today when I hear the utterly ridiculous justification for the terminology used in this letter by Calgary-Buffalo.

3:00

Now, Mr. Speaker, I want to begin by looking at the questions that were raised by the Member for Grande Prairie-Wapiti on May 16. Clearly they were dealing with a matter that was raised as a concern of the constituents of that hon. member, dealing with a record of criminal convictions and what the view of the government was with respect to making those criminal convictions available in circumstances that could cause compromise and could cause harm to Albertans. That was the first question. The supplemental was whether or not the Minister of Justice was working on any legislation that would allow criminals to hide from their criminal conviction, and then the second supplemental, a reference to an initiative of the federal government to ensure that dangerous criminals are kept behind bars, and then a question as to whether there would be any protection for convicted criminals. Nothing specific, but convicted criminals. That is a

matter that has been referred to in this House by the Liberal opposition.

They chose during further debate to try to quantify that, but that's not the question, as to quantification, that was raised by the Member for Grande Prairie-Wapiti. It was a question about whether or not we were going to bring forward legislation to protect these individuals, all directed at the government and a legitimate concern raised by constituents of this hon. member. Quite appropriate for that hon. member to ask those kinds of questions. Quite appropriate for that hon. member to demand a response.

Now, what happens as a result of this, Mr. Speaker? Well, we get a letter from the Member for Calgary-Buffalo. The Member for Calgary-Buffalo has stood many times in this House and waxed eloquent about his great knowledge and experience as a lawyer and as a Queen's Counsel, taking great pride in that and taking great pride in his focus and attention to civil liberties. Well, I would submit to you that if this hon. member doesn't think that the civil liberties of fellow parliamentarians in the Legislature of the province of Alberta are of any merit, then he'd better talk to his own colleagues, because I know what the colleagues on this side think about that kind of an attitude. For that member to stand in this House in a way of trying to justify his position and say, "All I was talking about was what authority I have as a member of this Legislature under the Standing Orders and under *Beauchesne* and under tradition," is utter, total bunk.

Mr. Speaker, you are a lawyer, and you have seen many demand letters. I daresay you've sent them out. The wording in this letter is very clear. The wording talks about, number one, "I cannot ignore your outrageous comments." That's to set the context of the remarks that are made at the end of this letter. Secondly, he then talks about "defamatory statements." Well, the hon. member has been a member of this House for quite some time and presumably is learned by this point in the rules of the House. He knows full well in the Hotel de Health fiasco, that was raised on the other side here, that this was some kind of point of privilege and points out very clearly that when matters are dealt with in this House between members, that is a privilege of this House. We are here as elected representatives of the people of Alberta to make those kinds of comments.

Nonetheless, he says, "I cannot ignore your outrageous comments." They're "defamatory statements," and I demand - oh, pardon me. He didn't go that far; I'll give him that. "I request that you forthwith apologize for [those] defamatory statements." Then he goes on - typical legalese. You've seen it, I've seen it, so has every lawyer in the province of Alberta, I daresay every articling student, and many who are taking criminal law courses at our colleges. "I request that you forthwith apologize," and "failure to do so will result in further action without notice to you." Then he goes on, "Please govern yourself accordingly." No question, Mr. Speaker, that knowledge, that understanding of the law, is what every lawyer in the province knows and understands. That is a formal demand. It implies to any lawyer - to any lawyer - that further action will be taken, normally civil action. There's no reference in here and there's no justification for understanding, believing, or sympathizing with the statement by that member that all he meant to do was to convey an opinion that he would take every recourse that was available to him as a Member of the Legislative Assembly in dealing with the questions that were raised by this hon. member.

Well, I would suggest that the hon. member is certainly very good at dishing it out. He's done that late in the night and early

in the morning and during the day, but he certainly can't take it. This is a perfect example of that. This was not a handwritten note in the heat of the moment; this was a considered letter that was intended to intimidate, was intended to sound like a lawyer's demand letter. Mr. Speaker, if it walks like a duck and it quacks like a duck and it sounds like a duck, it's a point of privilege in this House, and that's what this is. This is a prima facie case of privilege being presented by the hon. Member for Grande Prairie-Wapiti, and I hope that you'll find accordingly.

THE SPEAKER: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you, Mr. Speaker. Before the hon. Minister of Justice turns up the torches and the Bunsen burners on the feet of the hon. Member for Calgary-Buffalo, I think there is another perspective that perhaps should be put on this particular situation. First of all, it is very clear that both the hon. Member for Calgary-Buffalo and the hon. Member for Grande Prairie-Wapiti know what the House rules are and know that defamation, although theoretically possible in this Legislative Assembly, is not actionable. Both of them know that. For the hon. Member for Grande Prairie-Wapiti to read or construe any more into this letter than the hon. Member for Calgary-Buffalo says to this Legislative Assembly was his intention, with respect, is a giant leap towards an allegation of privilege, which I respectfully suggest does not exist.

Now, let me go back, and let's blow away all the legalese. Let's take all the legalese and all the smoke out of it, and let's talk about what really happened back there on May 16, 1996. The hon. Member for Grande Prairie-Wapiti started his question by saying that he was outraged. "Outraged" is the adjective he used, even though your Speaker's rulings have indicated that people are to talk only about facts and not express personal, inflammatory opinions in their question period. That's the first step of this diving board; okay? The first step of this diving board is that the hon. member says that he was outraged.

Then what he does is identify what he alleges is a Liberal policy, identified with an individual who has described himself as the monster of British Columbia, Clifford Olson. Now, this is what he says on page 1935 in *Hansard*:

Will the minister confirm that he will not bring forward legislation to protect convicted criminals, as suggested by the Liberal opposition?

Now, that is an extremely inflammatory section. With respect, the hon. Member for Calgary-Buffalo was obviously concerned about that issue. He raised a point of order, and he expressed his feelings privately and confidentially in a letter to the hon. Member for Grande Prairie-Wapiti.

You know, Mr. Speaker, if I say to this House rhetorically, if one individual of this Assembly says to another member, "If you don't stop talking, I'll cut off another kilometre of pavement," if that is not unparliamentary and constituting a breach of privilege, when they both know what the rules are, how can another member say that if there isn't an apology, further action will be taken? I suggest that some of the action is as the hon. Member for Calgary-Buffalo suggested. I suggest other action would be to point out to the constituents of Grande Prairie-Wapiti that the hon. Member for Grande Prairie-Wapiti is disagreeing with a task force apparently commissioned by the Premier of this province himself. All of those arsenals of ammunition are, in my respectful view, perhaps aggressive but not a breach of privilege.

**3:10**

I would ask this Assembly to remember that this hon. member has been here for a long time. He has acted in a courageous and forthright manner. He has been one of the most compassionate and most tolerant Members of this Legislative Assembly. He has been a role model on ethics, on kindness, and on decency. [interjections]

MR. DUNFORD: A typical Liberal role model.

MR. GERMAIN: The hon. member says, "A typical Liberal role model." Yes, indeed he is a typical Liberal role model, Mr. Speaker. When others were taking legislative pensions, this member said no. When others were taking committee fees, this member said no. [interjections]

THE SPEAKER: Order. [interjections] Order. The hon. member's comments have degenerated into something off the point. It just reminds the hon. member of addressing the court on character after a conviction has been made, and it's absolutely out of place in this. But if the hon. member has a few words germane to the argument that will wind this up, please complete them.

MR. GERMAIN: You know, Mr. Speaker, you raise a very good point about character and when it comes up in a proceeding. It also comes up when you are dealing with an ambiguity and trying to figure out what the intention was of the hon. member. Based on his record here, I ask this Assembly to consider that there is not a prima facie case of breach of privilege. The hon. member has explained himself, and his intentions have always been honourable in this Assembly. [interjections]

THE SPEAKER: Thank you. [interjections] Order please. The Chair has heard enough.

SOME HON. MEMBERS: Calgary-Shaw.

THE SPEAKER: No. The Chair feels it has heard enough in order to render a decision, but the Chair wishes to check the authorities referenced earlier and will make a judgment on this tomorrow.

The hon. Member for Edmonton-Glenora has indicated that he wishes to raise a point of order arising from question period.

**Point of Order****Allegations against Members**

MR. SAPERS: Thanks, Mr. Speaker. I'll try to be brief so we can get on with the business of the day. I actually have two points of order. The first one relates to an answer given during question period by the Minister of Health and the words uttered by the Treasurer when he did not have the floor. In both points of order I would cite Standing Order 23, particularly (h) and (i).

The difficulty I have with the comments by the ministers is this. The question was about physicians services being available in Smoky Lake to ensure that emergency services were available to those residents 24 hours a day, seven days a week. The response indicated that the Liberals would legislate doctors into place. The response also indicated that the Liberals weren't being particularly helpful. These are allegations, Mr. Speaker, that are false entirely. As the Minister of Health knows – I know that some of her staff have briefed her on our policy statements because I've

seen some of our policies now reflected in government policy – our policy statement on physician mobility says nothing at all about a legislative solution. We've been very aggressive in working with the college, with the AMA, and with medical schools in finding solutions to physician recruitment and retention in terms of the physician action plan for rural Alberta. We've been particularly monitoring the Smoky Lake situation, and if the Minister of Health would like some advice pursuant to our policy, the inroads that we've made, I'd be happy to provide it. But I could not stand by and let the notion go unchallenged that it would be a policy of a Liberal government in Alberta, when we form one after the next election, that we would legislate a solution to physician supply in rural Alberta.

THE SPEAKER: The hon. Deputy Government House Leader.

MR. EVANS: Thanks, Mr. Speaker. I would state that this is not a point of order. In fact, the hon. member, as he often does, wants to rise and have an opportunity to clarify the Liberal position. At best this is a disagreement on an issue. It's certainly not a point of order.

THE SPEAKER: That's exactly what the Chair was going to say. The hon. member has another point of order?

**Point of Order****Allegations against Members**

MR. SAPERS: Yes, Mr. Speaker. I just have to check my notes. Yes, it's pursuant to the question which I asked the Minister of Health about the out-of-country appeals process and committee. As the question developed and the response was received, you quite appropriately hit your kill button. My microphone went silent, so I could not correct the Minister of Health and her allegation also made against Standing Order 23(h) and (i). At that point I indicated that I would address that point of order at the appropriate place, and thank you once again for cutting me off at that time so that I could share this time and make this point of order.

Mr. Speaker, in the minister's answer – and I can only assume that either she misheard the question or in fact she was referring to her preordained notes in anticipation of a question and could not vary from that script in her answer – she did indicate that there was a large concern in this province regarding the availability of the supply of organs for transplant. That is of course a huge concern, and it is a concern that members of the opposition have raised on several occasions, including most recently today at the press conference which the Minister of Health alluded to in her response. If her appointed minion who was there monitoring the press conference had done his job and briefed the minister, he would have noted that it came up several times that we are concerned about the supply shortage and that in fact no Albertan should be penalized because of this supply shortage, and the fact that we have a transplantation program should not be then held against – that would be too much of an irony – Albertans.

So the specific allegation that the Liberals neglected to talk about the importance of organ donation could not go unaddressed, and I would ask the Minister of Health to please stand and apologize for making the allegation that we are unaware and unconcerned about the status of organ donation programs in this province and the shortage of donor organs.

MRS. McCLELLAN: Mr. Speaker, I would respectfully suggest

that there isn't a point of order. First of all, I was referring to a media notice. I realize that in both of these instances that the hon. member has spoken about there was a lot of noise from their own benches. Now, I don't know whether something struck a chord or just what the problem was, but I certainly will review *Hansard*, and I'm sure the hon. member will.

I was referring to – and I would be pleased, Mr. Speaker, tomorrow to bring a copy of that into the House and table it – the document that was put out by the Liberal caucus on this issue, and nowhere in that document does it discuss the issue of the shortage of organs for transplant.

Now, again I think that clearly this is an opportunity for the hon. member to stand up and put on record something that was omitted in this discussion. I am pleased that he would acknowledge that this is an issue, but clearly there is no point of order in my judgment of the intercourse that occurred across the way. If the Blues should prove otherwise, I would be pleased to respond to that at the first opportunity.

3:20

THE SPEAKER: The Chair thanks the hon. members for their further clarification of the debate that originated earlier in the day.

#### Speaker's Ruling Closure

THE SPEAKER: Before calling Orders of the Day, the Chair would like to refer to something that occurred last evening, May 21, 1996, when oral notice was given by the hon. Government House Leader of a motion for closure in Committee of the Whole on Bill 24. The Chair notes that this marks the first time that a notice of closure motion has appeared on the Order Paper since the Standing Orders were amended effective February 14, 1995.

Members will note that Standing Order 21(1)(b) was amended at the time to include the phrase "immediately after resuming a debate upon which progress has previously been reported by the committee." The change to the Standing Orders requires a slight change to the standard closure motion. To ensure that Motion 18 is consistent with the Standing Orders, the Chair wishes to advise the Assembly that a slight editorial change will be made to the motion to insert the words "when called" after the first use of the word "shall" which appears after the title of the Bill.

Of course, the reference to the title of the Bill should read "Individual's Rights Protection Amendment Act, 1996," not "1994."

The Chair's authority to make changes to proposed motions is referred to in *Beauchesne*, paragraph 173(3). Given the importance of this motion, the Chair wanted to draw this matter to the attention of the members at the earliest possible opportunity.

head: **Orders of the Day**

head: **Written Questions**

MR. EVANS: Mr. Speaker, I move that written questions appearing on today's Order Paper stand and retain their places.

[Motion carried]

head: **Motions for Returns**

MR. EVANS: Mr. Speaker, I move that motions for returns appearing on today's Order Paper stand and retain their places with the exception of 195, 196, 197, 198, and 202.

[Motion carried]

THE SPEAKER: Hon. members, the Chair apologizes. The Chair overlooked a point of order that the Chair had been given notice of. Would there be unanimous consent to revert to allow the presentation of another point of order?

HON. MEMBERS: Agreed.

THE SPEAKER: Opposed? Carried.

The hon. Member for Edmonton-Beverly-Belmont.

#### Point of Order Clarification

MR. YANKOWSKY: Thank you, Mr. Speaker. The hon. Member for Edmonton-Glenora rose in this Chamber earlier and tabled what he called a petition regarding health care from concerned Edmontonians. Now, I don't have a copy of the Blues. I asked the pages here just a few minutes ago, and it's still not available. But I do have the document that he was speaking about.

Yes, I did receive this document sometime ago, but it is not a petition. It is only a letter from the nursing staff of the Alberta Hospital Edmonton. In their letter they state their concern for "the provincial government's policy regarding health care delivery." Then they go on to support their position and finally they close by asking me, "Are you prepared to be accountable for the actions of your government? We are greatly interested in learning your views and would appreciate hearing from you at your earliest convenience."

Now, I have submitted this letter to the minister's office for her department's perusal, and a reply of their concerns is forthcoming. Mr. Speaker, contrary to what the hon. member has said, I am concerned and I do care, and there will be a letter forthcoming to the nurses of Alberta Hospital Edmonton.

MR. SAPERS: Mr. Speaker, it's hard for me to know exactly what the point of order was because there wasn't a citation. Certainly the hon. Member for Edmonton-Beverly-Belmont recited very well what transpired in tablings, that I did in fact table a letter accompanied by a petition. My definition of petition is that listing of signatures. [interjection] Yeah, that's true. I'm sure that those nurses are still looking forward after all this time to a response from the hon. member, but I didn't hear the point of order.

THE SPEAKER: Well, the Chair will again say that this point of order is really a point of clarification on behalf of the hon. Member for Edmonton-Beverly-Belmont.

We will return to Orders of the Day.

#### Water Release Reports

M195. Mr. Kirkland moved on behalf of Mr. Collingwood that an order of the Assembly do issue for a return showing copies of any reports by TransAlta Energy Corporation or TransAlta Utilities Corporation to the Department of Environmental Protection between January 1 and December 31, 1995, concerning the timing and volume of water release from dams controlled by either corporation.

THE SPEAKER: The hon. Minister of Environmental Protection.

MR. LUND: Thank you, Mr. Speaker. This particular motion is asking for copies of reports by TransAlta Energy Corp or

TransAlta Utilities Corp to the Department of Environmental Protection between January 1 and December 31, 1995. The fact is that these corporations do not report to the Department of Environmental Protection on the timing and the volume of water released from dams. It's important that this be uniform across Canada. In fact, the federal government under the Water Survey of Canada does this collection. It saves a great deal of money. It's uniform across the country, and the other provinces across the country collect this information. So since this government is co-operative and anxious to help in releasing information, we will in fact get that information from the Water Survey of Canada and provide it to the hon. member.

MR. KIRKLAND: Mr. Speaker, certainly I understand what the minister is stating: there's a third party involved here. I would have to admit I'm somewhat disadvantaged, not having been briefed by the hon. Member for Sherwood Park on this matter. I speculate at this particular point that what we're dealing with here is perhaps the drop of levels of Lake Wabamun and some of the water releases that may have contributed to that. Certainly the hon. minister knows that's a controversy at this particular time in this area, and I think it would bode well for public comfort and public understanding if this information was shared and supplied. I would suggest that it may also assist the department in determining some of the difficulties we may have run into somewhere along that line and also ultimately point the company as well as the government towards a solution.

[Motion carried]

### 3:30 Water Release Agreements

M196. Mr. Kirkland moved on behalf of Mr. Collingwood that an order of the Assembly do issue for a return showing copies of any agreements between TransAlta Energy Corporation or TransAlta Utilities Corporation and any irrigation district supplied to the Department of Environmental Protection from January 1, 1990, to March 31, 1996, regarding the regulation of water release from dams controlled by either corporation.

MR. LUND: Mr. Speaker, this particular motion is asking for copies of any agreements between TransAlta Energy Corp or TransAlta Utilities Corp and any irrigation district that is supplied to the Department of Environmental Protection. Well, we do not have in our possession any of these agreements, so we find it necessary to reject this particular request.

THE SPEAKER: The hon. Member for Leduc.

MR. KIRKLAND: Thanks, Mr. Speaker. Again looking at it, certainly I can see and acknowledge that what the minister says is accurate: they wouldn't have them in their possession. Irrigation districts, as we know, are a creature and a creation of the provincial government. As a consequence, looking at what may have caused a flood or damage along a river where TransAlta itself may have been the controlling agent at the dam or the head of the river, it would only again be an informative stop for the public to perhaps understand this process and perhaps understand how we run into situations where a river would flood, where in fact we might have difficulty. I'm thinking this might be the Oldman River situation, whether the snowpack was so high – I think what we're really searching for in this particular case is

anything that may be helpful in attempting to prevent disasters or floods in the future. I concede, hon. minister, that this is a third party that's involved in here. [interjections] Okay. In indicating that you don't have any, I would suggest that perhaps if there is any in the irrigation districts, that I indicated would be a creature of government, then perhaps canvass them.

With those comments, Mr. Speaker, I will conclude.

[Motion lost]

### Pest and Predator Control

M197. Mr. Germain moved on behalf of Mr. Collingwood that an order of the Assembly do issue for a return showing a list of all government programs for controlling pests and predators on public lands together with the associated implementation policies and the name of the department and branch responsible for carrying out the control.

MR. PASZKOWSKI: Mr. Speaker, I am pleased to accept Motion for a Return 197.

[Motion carried]

### Special Waste Management Corporation

M198. Mr. Sekulic moved on behalf of Dr. Percy that an order of the Assembly do issue for a return showing a copy of the December 16, 1985, letter from the chairman of the Alberta Special Waste Management Corporation to the Minister of Environmental Protection, as referred to on page 24 of the Auditor General's annual report, 1994-95.

THE SPEAKER: The hon. Minister of Environmental Protection.

MR. LUND: Thanks, Mr. Speaker. This motion is calling for an issuing of a copy of the December 31, 1985, letter from the chairman of the Alberta Special Waste Management Corp to the Minister of Environmental Protection. This particular one involves a third party and would require the approval of the author of this letter, so I would suggest to the hon. member that he apply to the chair of the committee, or if he finds that difficult, he could have it dealt with through the Freedom of Information and Protection of Privacy Act, because there is a third party involved and there may be some confidential information in there. So with those comments I find it necessary that we have to reject this particular motion.

THE SPEAKER: The hon. Member for Edmonton-Manning.

MR. SEKULIC: Thank you, Mr. Speaker. I am going through this request on behalf of my colleague from Edmonton-Whitemud. I referenced the Auditor General's annual report for 1994-95. As a relatively newly elected member of this Assembly, every time the government enters into an agreement, supposedly on behalf of Albertans, and exposes a significant amount of tax money, particularly when this exposure is with respect to a private interest whose pure purpose is a profit and monetary gain, then I would see that those dollars that are exposed have to be completely transparent. Every agreement pertaining to that deal or understanding that the government may have reached on behalf of taxpayers has to be perfectly transparent, and I see no other way to approach this issue.

In fact, the Auditor General in his report on page 23, once again the '94-95 report, states:

In November 1985, at the Corporation's request, Cabinet gave approval for the Corporation to negotiate a Joint Venture with BVRS to own the facility, with BVRS holding the majority share. Each party presented the other with proposed joint venture agreement terms, but both found the other's position unacceptable.

It goes on to say that "the Board received instructions" from I believe the government "which it interpreted as authority to negotiate 'up to' BVRS' position." I would say that the board at that point was the only body truly acting on behalf of the Alberta taxpayer. In doing so, they rejected the BVRS position, and I think they did it for fiscal reasons. They wanted to protect the taxpayer.

However, Mr. Speaker – and this is really the clincher – the Auditor General goes on to say:

On December 16, 1985, the Corporation's Chairman informed the Minister of the Environment that the Board had approved the steps necessary to proceed with its own recommended course of action. This was that Chem-Security would be paid out under the terms of the Interim Agreement, and a new owner and/or operator would be sought unless an operating agreement could be negotiated with BVRS/Chem Security.

I just have a little bit more here in reflecting the Auditor General's comments. He goes on to say:

Within days of receiving the Chairman's letter, the Minister terminated the Chairman's contract, and two Board members resigned in support of the former Chairman. A new Chairman was appointed, the Board members were replaced, and negotiations resumed.

So clearly what we have here is a board, a chairman that acted responsibly, responsibly to reflect concerns not only for Albertans and hazardous waste but also for public dollars. That concern, that action was dealt with quickly, swiftly, and as the President of the United States said not too long in the past, decisively. They took these responsible individuals out and put new individuals on the board, and those board members then reflected more accurately the position of the ministers that were in power that day, which wasn't in the best interests of Albertans. Clearly now, \$550 million or close to \$600 million later, we see this to be the fact. What we're asking for here, Mr. Speaker, is clearly transparency. A large amount, an unquestionably large amount, of public dollars was exposed. They were lost, and what we want to know is why those dollars were lost.

When I review this Swan Hills fiasco and when it comes up in my constituency, I summarize the issue. I go: the plant expanded and received a loan guarantee as well as guaranteed profits, the oil companies were saved from additional costs, and the Alberta taxpayer turned out to be the only loser as a result of the decisions of this government. Mr. Speaker, even the environment minister went on to become the Premier. The only loser here is the Alberta taxpayer, and the Alberta taxpayer demands accountability, and clearly that's all that's being requested here.

[Motion lost]

### 3:40 Special Waste Management Corporation

M202. Dr. Percy moved that an order of the Assembly do issue for a return showing copies of all working documents, memoranda, and studies prepared by or for the Minister of Environmental Protection between March 30, 1989, and December 31, 1992, resulting in the decision to defer the June 1989 review of the Alberta Special Waste Manage-

ment Corporation joint venture agreement until 1992, as noted on page 27 of the Auditor General's annual report, 1994-95.

THE SPEAKER: The hon. Minister of Environmental Protection.

MR. LUND: Thank you, Mr. Speaker. This particular motion is once again an issue that involves a third party. I think the hon. member knows that when there is a third party involved, it's necessary to get the agreement of that third party. So once again I have to suggest to the hon. member that if they are really sincere about getting this information, they should write to the chair of the joint venture board and get that permission. The argument that we're going to hear, I would suggest that he save that, if his letter to the corp doesn't work, that he save the argument and go through the Freedom of Information and Protection of Privacy Act, because they in fact are set up to determine exactly what is to be kept private – because there's a third party involved – and what can be made public.

I regret that we find it necessary to reject this motion at this point, but the suggestions that I made I wish they would carry through.

THE SPEAKER: The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you very much. We now have received the most unique argument possible, and that is that because there is now a freedom of information Act we should go there and not ask the minister for legitimate information that should be in the public domain that deals with extravagances of this government. Who would have ever believed that the freedom of information Act would become the minister of environment's shield against legitimate disclosure?

Now, this Swan Hills waste treatment plant, Mr. Speaker, is the gift that keeps on giving to Alberta young children because it's cost this province \$600 million already and we are still not out of the glue when it comes to ongoing liabilities. For the hon. minister to refuse disclosure because there may be a lot of photocopying – I mean, this government thought nothing of shredding a 2,000-page document that was already bound for public distribution. So obviously for them to go through their records and produce some copies of documentation to deliver to a legitimate public interest request is, in my respectful estimation, inappropriate, and the minister of the environment should reconsider. If not, the Members of this Legislative Assembly collectively should say: "Yes, let's get that information out in the public domain. It cost Alberta taxpayers some \$600 million."

It is funny how, when it is a feeble initiative of the government to try and express some positive point of view that they want to express, they have no trouble displaying all the documents and giving you all the copies you want, but when the drill goes close to the nerve, the nerve of public 'wastitute,' suddenly they are tighter than the clam in the cartoon strip B.C. So I would strongly urge all members of this Assembly to vote yes to this motion.

MR. WHITE: Mr. Speaker, this is something that I hesitate to tell my children about. Here is the government of the day that invested a half a billion dollars – half a billion dollars – in what they now call a third party. Here it is that they have invested the money, and now they can't see it right to tell the people about what kinds of agreements were made. This is absolutely ludi-



crous. It would make an absolute farce of freedom of information. This is just unbelievable that one has to stand in this House and even make these arguments. Here is an organization that is totally and completely, every penny, funded directly or indirectly by the province of Alberta.

A member asks for information that points to where or how this money may be lost so that in the future they may be a little more diligent in dealing with these, quote, third parties, and what happens? The minister says: "Oh, no. Jeez, we can't deal with that. I can't give you that information. Aw shucks." This is so preposterous and so idiotic that the children in the gallery must believe that the only job of the government is to hide absolutely everything: spend the money, dip and dive and hide.

Now, as pointed out by the Member for Fort McMurray, I don't know how this government thinks they can operate under that premise, hiding behind freedom of information, saying, "Oh, well, if you can't get information somewhere else, gee whiz." The minister of the day should be tabling the documents. In fact, the minister of the day that a lot of these decisions were made under, the hon. Premier, should be the one to table these documents, should be the one to come clean and say, "Yes, this is what I did based on this information." If the information was all there, laid out before us, perhaps some people would have made the same decision he made at the time and perhaps not, but the citizens of Alberta are not to know.

How? How are the citizens of this province, particularly the young people, to decide on how to set a course for the future when the information and the major errors, the absolute worst errors in the province's history, are hidden: hidden, tucked away, and never, ever, ever, ever to see the light of day because it's a third party and we might violate some kind of fiducial interest? Well, gee whiz.

This province funded them totally and completely. You'd think that the member would stand up and say, "Yes, we made an error, and this is why we put this information out." I cannot believe it. It is absolutely disgusting.

THE SPEAKER: The hon. Member for Lethbridge-East.

DR. NICOL: Thanks, Mr. Speaker. I just want to make a couple of comments on this motion. It brings forth I think a major philosophical difference on the approach of the expenditure of public tax dollars between this government that's now in power in Alberta and what I think most Albertans would like to see in their government. Basically what we're asking for here is information that relates to the expenditure of public dollars, the decisions that are made that affect public dollars, and it should be all done in the public.

When we enter into an agreement with a business or with individuals relative to the expenditure of those public dollars, it should be implicit, unless we're violating some business structure that they have within their organization or some kind of a patented business benefit that they have, that the rest of it should be out in the public. The ideas should be and freedom of information and the Acts that we put together to protect privacy – we should make sure that when public dollars are involved, it's up to the individuals to show that they will be hurt, that they will be harmed, if the information is released rather than us as spokespeople for the public having to prove the other way.

Mr. Speaker, I think this is one thing that we should look at both in terms of the inappropriate response to this motion and the inappropriate formulation of our protection of privacy laws.

We've got to change them around so that unless harm occurs, they have to be made public, rather than it's protected unless you can show a need. It's the wrong way to do it.

Thank you, Mr. Speaker.

THE SPEAKER: Before I recognize the hon. Member for Edmonton-Manning, might there be consent in the Assembly to revert to Introduction of Guests?

HON. MEMBERS: Agreed.

THE SPEAKER: Opposed? Carried.

The hon. Member for St. Albert.

head: **Introduction of Guests**  
(*reversion*)

MR. BRACKO: Thank you, Mr. Speaker. I'm honoured to present to you today Alberta's greatest resource: 20 students from the Manachaban school. They are part of the school band. They are here with their educator Elizabeth Greyson and their band teacher Cathy Buckell. They are in the public gallery. I'd ask that they rise and receive the warm welcome of the Assembly.

head: **Motions for Returns**  
3:50 (*continued*)

THE SPEAKER: The hon. Member for Edmonton-Manning to conclude debate on this motion for return.

MR. SEKULIC: Thank you, Mr. Speaker. Since I've come here, at every opportunity I've had, what I've done when I stood is that I've tried to create an opportunity for the government to do something right. I've asked for information. I've asked for accountability with regards to the expenditure of public dollars. Now, one shouldn't think that would be intrusive on a government. One shouldn't think that would be a meddlesome or frivolous request of information. One would quite safely assume, at least in my constituency, that that would be an appropriate approach to parliamentary democracy and particularly to accountability and trying to put accountability forward.

When we take a look at the Swan Hills issue, it is a blemish on the public-sector management. It speaks directly to negligence and I would say incompetence, Mr. Speaker. The sum result now is that we – our children, our seniors – have faced and continue to face serious cuts in the one area that government should truly be in, and that is the delivery of social programming, not the business of investment, because clearly they have failed virtually every single time when they have meddled in the private sector. In fact, I've stood . . .

MR. DUNFORD: What's the list, Peter?

MR. SEKULIC: I'm not going to read the list despite requests from numerous hon. members, Mr. Speaker, and that is because I don't intend to take the full 20 minutes. I try to use my time efficiently.

Mr. Speaker, when I try to inform my constituents, I do an annual report on what's happened in this Assembly. The last annual report was somewhere in the area of 35, 36 pages, for all of those who are interested, and my summary of Swan Hills was that this whole tale is yet to be fully told. In fact, that's why we see Motion 202 on the Order Paper. Once again, what we are

requesting here is "copies of all working documents, memoranda, and studies prepared by or for the Minister of Environmental Protection." So these were prepared either "by or for the Minister of Environmental Protection." In effect, this is an extension of the electorate; this is government. So this was prepared by or for the taxpayer, and now the taxpayer has no ability to get the reports, the memoranda, or the studies that were done on their behalf, that they'd requested. It's a bit of a concern. We've tried to narrow down the scope so that the government wouldn't have to go through an incredible amount of paperwork and deliver that into this Assembly in wheelbarrows. We defined the time period and tried to simplify the task for the government, yet that wasn't enough.

The issues that will come forward many times in years to come as we continue to adjust public expenditure will be revolving around Swan Hills. In particular, the first one, as I see it, will be the explanation for the government's June 1992 decision not to invoke section 1302 of the joint venture agreement between the Alberta Special Waste Management Corporation and the BVRs, Bovar. Section 1302, Mr. Speaker, would have permitted the government to terminate the buyout of the agreement. This was not done despite the Alberta Special Waste Management Corporation board's recommendation to do so. So here we have, as I said earlier, a nonelected board, a nonelected body – in fact, they were appointed by the government – a board that cautioned the government that there was an opportunity at that time to stop the bleeding, and the government chose not to. In fact, the government chose to replace those people who made that responsible recommendation to them.

In the spring of '92, Mr. Speaker – that's going back in time – the board advised the government to buy out of the agreement and cap their losses at less than \$40 million. That would have been the appropriate time to stop the bleeding because the patient may have survived. The government rejected all such recommendations, and the question has to be why. That's the question I get on occasion in my constituency. Why would the government reject such a recommendation? Well, what was the motivation for staying in a deal that was guaranteeing a private company profits that were paid for by the Alberta taxpayer? This question is yet to be answered, and I suspect that as long as I'm in this Assembly – and there's probably some debate as to how long that will be. Nonetheless, that's one question that I will have to continue to ask on behalf of Albertans, because so much of their money was lost on it.

Mr. Speaker, the other explanation that's required regarding the Swan Hills fiasco was the explanation for a decision surrounding the hazardous oil field wastes as they pertain to the expansion of Swan Hills: the timing of those decisions, and whether the environment minister, who is ultimately responsible for those decisions, actually made them. It's interesting to note that the plant's expansion was approved only on the condition that hazardous oil field waste would be a new waste stream for Swan Hills. Well, we all know, Mr. Speaker . . . I suspect there's a point of order coming up.

THE SPEAKER: The hon. Member for Calgary-Shaw rising on a point of order.

#### Point of Order Clarification

MR. HAVELOCK: Yes, Mr. Speaker, 23(h), (i), (j), imputing motives. Actually, the hon. member's statement with respect to the facility being expanded "on the condition" that additional

waste streams, new waste streams would be going to the plant is incorrect. It was under consideration at the time, but it certainly was not a condition of the expansion.

THE SPEAKER: Thank you for the clarification, hon. member.

MR. SEKULIC: Mr. Speaker, when I speak of Swan Hills, the majority of my research has in fact been by a third party, that being the Auditor General, so I do depend on that information. The hon. Member for Calgary-Shaw, because of his detailed work in the area, I suspect has had exposure to information that I as an opposition member haven't had. Some of what he shares with me may in fact be correct, but we'll never know because it was never tabled. Albertans were never given the documentation to substantiate that claim. So I'll have to go on the proposition that I've put forward.

#### Debate Continued

MR. SEKULIC: Well, in the end the third question that we have to ask is: is the taxpayer now liable for the cost of dismantling the expansion, which cost \$114 million to build but was never required? We find that the cost of dismantling the plant, according to the Auditor General, is between \$31 million and \$58 million, once again to be paid by the Alberta taxpayer. As a result of the June, October, and December 1992 decisions of the then environment minister and his government, the Alberta taxpayer has paid between \$125 million and \$150 million, and I suspect that cost in the future, when we look back, will be considerably higher. But we've paid roughly \$150 million just to stop the bleeding at this point.

Mr. Speaker, when we have a financial tragedy such as this, I don't think we can go far enough to seek out the facts. In fact, a recent example at the federal government level: they shut down I believe the entire department of defence looking for memos to determine – it was an issue of integrity. Now, the outcome of that, that day they took off to search, I'm not going to speak to because I really don't know. But when you have issues of this magnitude which speak to public confidence in their elected officials, I think we need to take the time and assess the entire issue with the full facts before all of us, not just a selected few.

So I do sympathize with the now minister of the environment and some of the barriers supposedly preventing him from providing my hon. colleague from Edmonton-Whitemud with the information that's been requested, but I also have to say that that minister and his government are accountable to the taxpayer. It is to them that they must report, and this is the information that would provide the kind of background we need to have to know where that \$600 million, two-thirds of a billion dollars, went.

Thank you, Mr. Speaker.

[Motion lost]

head: **Public Bills and Orders Other than**

head: **Government Bills and Orders**

head: **Second Reading**

**Bill 215**

**Crown Grazing Lease Statutes Amendment Act, 1996**

[Debate adjourned May 21: Dr. Taylor speaking]

THE SPEAKER: The hon. Member for Cypress-Medicine Hat.

DR. TAYLOR: Thank you, Mr. Speaker. I just have a limited

time left, so I will try to get all my comments in. Now, just to recap briefly where I was yesterday, I had referred to public housing and compared it to the grazing lands and how one would expect, in an urban area, to have to ask permission to enter public housing. I compared that to asking permission to get onto grazing lands and the necessity of asking permission to protect against damage to the sensitive grasslands, to the ecology, to improvements that are on the grazing lands.

MR. HAVELOCK: Who wrote that for you?

4:00

DR. TAYLOR: A member has asked me who wrote that for me. Quite frankly, hon. Member for Calgary-Shaw, these are my own thoughts, so you'll have to bear with them.

The other point I was making was in terms of the environmental groups suggesting that these grazing lands have been overgrazed and pointing out that in fact that is not the case. The ranchers and the farmers are the best stewards of the land, and they look after the land to be able to continue their ranching and farming efforts over the years.

There was one other story I told, Mr. Speaker, about prairie oysters, and I've been requested to tell that story again, but I will refrain due to the time allowed for me. I would just encourage all members to read the story of prairie oysters in *Hansard*.

Now, I do have some specific concerns about the Bill, Mr. Speaker. The dispute mechanism is one concern that I think is important to look at. I would argue and many of my constituents would argue that the Environmental Appeal Board is probably not the best place to take disputes. This is a quasi-judicial board who hears appeals on government environmental decisions. It's not the appropriate board that would settle access disputes. It's a very time-consuming board, takes a long time, and usually there's considerable cost to prepare a case for appearing in front of this board. Quite frankly, the Environmental Appeal Board is the most inappropriate place to appeal to as a dispute settling mechanism. In my position we do not need any type of board like that to appeal to. The appeal should be left with the land leaseholder, and they should be the ones that are controlling the access to the land.

[Mr. Clegg in the Chair]

Another problem with the Bill is that it does not draw the line only at grazing lease land access. It talks about all public lands. What this means, Mr. Deputy Speaker – sorry; deputy Deputy Speaker.

SOME HON. MEMBERS: Mr. Speaker. Mr. Speaker to you. It's Mr. Speaker to you, pal.

DR. TAYLOR: Oh, sorry. Mr. Speaker. I assumed, because you were deputy deputy when you were sitting down here, you were also deputy deputy when you were in the Chair. I've been corrected, so I will refer to you in the future as Mr. Speaker.

This means that access could be gained not only to grazing lease lands but to a variety of public lease lands. In fact, there's a considerable amount of public lands that are used for industries like oil and gas and mining. I think certainly, Mr. Speaker, there has to be some concern about safety. I mean, do you want people wandering over a public lease that is used for mining activity? It could be very dangerous to the people that are doing that. So, once again, access does need to be controlled. There has to be

somebody saying, no, you can't wander around this coal mine or, no, you can't wander around this oil development site here. It has to be controlled, and we need people to control that.

Once again, it would be inappropriate to try to appeal a decision of a mining manager to the Environmental Appeal Board. It just makes no sense at all. I think if members opposite examine this Bill in any kind of detail, they will come up with the same conclusion. In fact, there are enough problems with this Bill just in what I've mentioned so far that it should not be supported.

The other question that the Bill does raise is liability, and liability is limited to gross negligence under this Bill. Now, why make the leaseholder on grazing lease land any different than other land occupiers? Because he's a leaseholder? Does that make him different than deeded land? I would argue that we should have similar conditions for both persons, so it doesn't make a lot of sense to have this section of the Bill in there.

A further point. The interpretation of the amendment to the Wildlife Act could be read to mean a preclusion of all hunting on lease lands even by the leaseholder. Mr. Speaker, in my constituency we have huge problems with damage done to land by deer. We have huge herds of deer. In fact, if you go along the South Saskatchewan River to some of the ranches that I used as examples yesterday of good stewardship, we have the British block on the other side of the South Saskatchewan. There there's no hunting allowed, unless they get an occasional deer with a tank shell or something, but overall there's no hunting allowed. So what happens is the deer cross the river and invade the property and the crops immediately adjacent to the river, and certainly we need to allow hunting for control of the deer population.

We had a situation in my constituency four or five years ago where the deer were destroying this one farmer's haystacks. He appealed to the appropriate authorities, and the appropriate authorities, unfortunately, in those days wouldn't do anything. So he informed them as to what he would do. He told them that he was going to shoot the deer because they were destroying his haystacks. What happens is that once deer are on a haystack and foul the haystack, cattle won't eat it. Actually, they climb all over the haystack and cattle simply will not eat it, so it destroys the haystack for future use. So this young rancher, he went out and shot – I don't know – 30 or 40 or some great number of deer, just left them there, and then called the wildlife department. There was a considerable stir about that, as you can well imagine. But it does raise the point that we have problems with deer in particular in that southern part of the province, and it is necessary to control them. Any interpretation of the Wildlife Act this Bill brings forward that would not allow hunting on a grazing lease could certainly be a very, very serious problem.

Another example might be along the borders of Elkwater park, which is also in my constituency. There they have a large elk population that lives in the park and on the borders of the park. The elk herd comes out and once again absolutely destroys haystacks and feed stacks. If I could show you pictures, I would have brought pictures in here to show you some of the precautions that ranchers have taken and some of the expense they've gone to in building these huge fences to keep the elk out of their property and to keep the elk out of their haystacks. It is a very serious problem because the ranchers need that feed for winter fodder for their cattle. Once again, if we didn't allow any kind of elk hunt in this borderline area of the park, there could be a much more serious problem than presently exists, so we are in a very serious situation when it comes to this Wildlife Act. Once again, Mr. Speaker, that alone is a reason why I hope the members opposite would not vote in favour of this Bill.

Another consideration that I am concerned about and that I

know my constituents are concerned about is vehicle access. Now, what this Bill says is that there will be unlimited vehicle access to roadways that are part of leases. That may sound good to an urban dweller, but in southern Alberta we have huge tracts of land with road allowances as part of these tracts of land, but there's no road there, no official road there. You know, on the map it will show a road allowance, but there is no road there, so it becomes a real problem with identification of where the road allowance is. If you have somebody in their four-wheel drive vehicle driving on this lease land, where is the road allowance? You can't tell in many cases that it in fact exists unless you have a very detailed map to look at in front of you. We would be allowing, then, unlimited access to these road allowances. Where are they? In many cases they're just the ordinary prairie grass. Sometimes there may be some seeded grass over this area. So there is a very serious problem. [Dr. Taylor's speaking time expired]

I wonder if I could ask for unanimous consent, Mr. Speaker, to continue my speech.

#### 4:10

THE ACTING SPEAKER: The hon. Member for Cypress-Medicine Hat has asked for unanimous consent to continue his remarks. All those in favour, please say aye.

SOME HON. MEMBERS: Aye.

THE ACTING SPEAKER: Opposed, if any?

SOME HON. MEMBERS: No.

THE ACTING SPEAKER: The hon. Member for Edmonton-Mayfield.

MR. WHITE: Thank you, Mr. Speaker. I'll pick up where the hon. Member for Cypress-Medicine Hat left off. He was talking about four-wheel drives. Well, if he read the Bill carefully, he'd see that that part is excluded, and in fact it's talking about foot access and foot access only. In fact, it toughens up some of the provisions so that the definition of highway could be expanded to trail or roadway so as to allow order in council to set regulations such that those things could not occur. That was permissive, in any event. So that would not be at the discretion of anyone, particularly not an owner of a four-wheel drive vehicle or any other such vehicle. It's foot traffic that this is talking about.

This piece of legislation tries to redefine what we've all tried to do for a long time, to define public interest in public land, coming at it by way of the concept of private ownership of land. Of course, the original, quote, owners of the property – the native Indians, the aboriginals of this country – had no concept of private ownership. You could not own. It's like owning the air or owning the sky or owning part of an animal. This could not be done. So here we have this imposition.

Now, we've had a great deal of difficulty. I think we in this society pretty well agree that the best stewards of property are those that have a direct interest in it. Therefore grazing leases are granted, and it's reasonable that they should be granted in fact. Most of the grazing leases that I've seen are very, very well kept by the lessee. In fact, it's the only way . . .

DR. TAYLOR: Mr. Speaker, a point of order.

THE ACTING SPEAKER: Hon. Member for Edmonton-Mayfield, we have a point of order.

#### Point of Order Imputing Motives

DR. TAYLOR: *Beauchesne* 459, imputing motives, and Standing Orders 23(h), (i), (j). The member suggested that I hadn't read the Act. I would refer the member to a section of the Act. Section 112 is amended by adding the following clause: "prescribing designated trails and roadways on land held under grazing leases." That's what they want access to, Mr. Speaker, and that's what they want vehicular access to.

MR. WHITE: The first citing, *Beauchesne* 458, is called Decorum in Debate. I believe the hon. member certainly isn't a fine example of decorum in debate, and in fact what he was referring to was 482, which is Interruptions in Debate. I present to you, sir, that was all that was. He had ample opportunity and in fact went right to the bell to explain his position on the Bill. It is now this member's turn to express interest in the Bill. I give to you, sir, that this is definitely not a point of order. It was merely out of order.

MR. SEKULIC: Rule on that. That's a tough one.

THE ACTING SPEAKER: Yes, it's very tough.

The hon. Member for Cypress-Medicine Hat has not got a point of order. There might be some disagreement, which there usually is in the House, but certainly not a point of order. It's called freedom of speech.

The hon. Member for Edmonton-Mayfield.

#### Debate Continued

MR. WHITE: Thank you, Mr. Speaker. To continue on, this piece of business is most important to a lot of Albertans, particularly those that do like to spend a great deal of time out in the country in some free, open nature. As a matter of fact, in the places where these public lands are dealt with, they are dealt with, in my view, in a reasonable manner in leasing the properties to those that are going to care for these properties. However, you really cannot have it both ways. If you're going to own a piece of property, in our definition of a piece of property, and be the proper long-term steward of that property, then, yes, the right of access has to be restricted, only with permission.

This Bill makes that little extra step to say that these are in fact public lands. These are not lands that are all fenced and divided and worked. These are supposedly kept as much as possible in their natural state. Now, I can't think of a better piece of property for citizens of Alberta. In fact, for citizens of the world that wish to walk through and enjoy nature, these are the lands. To restrict access of vehicles I can understand. I have no difficulty with that, because certainly they chew up a lot of the turf and in fact destroy the flora and fauna in its natural state. I certainly wouldn't be one of those to promote and propagate that kind of activity. However, that doesn't mean to say that there aren't a lot of people who would like to hike through the areas and enjoy the nature that's there in conjunction with the grazing activity that is allowed there under lease.

This piece of legislation goes some way to respect the rights of us, the public. It certainly does restrict the rights of hunters. I have no difficulty with that. Certainly anyone who intends to hunt on these properties that are used for grazing has to seek permission and have an understanding with the lessee, because the lessee has in his charge not only the property but the domesticated

animals that happen to be on that property, and certainly protection of those animals is reasonable at all times. I have no difficulty with that.

Mr. Speaker, this piece of legislation is eminently reasonable in my view. It doesn't unduly restrict any activity of the lessee. It certainly enhances the use of these properties by the public. I must end with saying that in 1987 there was a task force of five MLAs and two members of the public that proposed exactly, precisely what is in this Bill. I submit to you, sir, it is reasonable, it doesn't present any impingement, in my view, in a major way on a lessee, and it in fact allows for some kind of mechanism for joint use.

Thank you for your time, sir.

**THE ACTING SPEAKER:** The hon. Minister of Municipal Affairs.

**MR. THURBER:** Thank you, Mr. Speaker. I'd like to follow up with a few concerns that I have with Bill 215, and I will be voting in opposition to it for some very real reasons. I have had a little bit to do with lease land, as has my hon. colleague from Cypress-Medicine Hat. There are a lot of things that happen. If the world was a perfect place and people were responsible for their actions, there would be no problem with letting people walk on lease land or drive on it or whatever.

I can tell you some things that happen. There's a trail in some of the foothills in southern Alberta going into some lease land, and the people who have that lease actually gave permission to people to drive in there with four-wheel drives on a weekend, because it was a nice day and they wanted to go up and travel in the hills with all-terrain vehicles and four-wheel drive vehicles. So they went in and they stayed overnight there. The next morning when they got up, it had started to rain, and it rained about four inches. Then they started out with their four-wheel drive vehicles, and the highway, so-called, that's in there was no longer passable. So they started spreading out, and they would make another trail somewhere until somebody got stuck in it, and then they would move over. They decimated probably 50 acres on their way out on that lease land.

Now, under the terms of a grazing lease you have a responsibility as a lessee to maintain that lease and to maintain it in a fit and agricultural manner to support the livestock that you're putting on there, whether it be horses or cattle. You also have to manage the fences. You have to make sure it's fenced; you have to keep them in good repair. You're only allowed a certain amount of cattle per month and per year on these grazing leases. In most cases the reason that it is Crown land and it's operated under a lease is because it's very fragile terrain. When you talk about the Eastern Slopes of the Rockies or out in the special areas, some of the prairie regions, if everybody was responsible for what they did, it would not be a problem, but you have people that start prairie fires, they start brush fires, they start forest fires, they leave garbage around, and there is a liability question.

4:20

A lot of the people that are talking about this Bill being good legislation have never been around livestock of any kind. If you walk in through a herd of horses with stallions involved, you can get attacked, and the guy that owns them is responsible. There is a liability. If you walk in my herd of cattle, I have a number of bulls there. In fact, I have some cows that will attack you, and then I am liable on the lease land. So I think we have to take that into consideration, Mr. Speaker.

I'll give you another instance that happened on a lease in central Alberta some number of years ago. They were good enough to agree to let some guys go on their lease to go coyote hunting. The method they used for coyote hunting was with skidoos, but on the front of the skidoo they had an iron bar up like that which was sharpened, and they cut his four-wire fences in 35 places chasing coyotes with skidoos. Now, that's irresponsible and I don't know how you manage that, but, in the first place, on that lease land if anybody wants to travel on property that's neither owned nor controlled by them, I firmly believe they should have the permission of the lessee or the owner of that land. These things have been going on for years, and there's a good reason why some of the restrictions on trespass and on access to Crown lands are there at the present time.

I mean, you can carry it a long ways. As my hon. friend over there had said earlier: what do you do on a lease where there's a mining operation going on or large oil explorations going on? If somebody has the right by law to go onto that property and then they get hurt, who is responsible for that? This Act refers to another Act under the liability area and that that would not count in this case, but I assure you, Mr. Speaker, that there would be lawsuits coming out of their ears if you allowed people the full use of all of the lease land where there are other activities going on on that.

It says in this Act that "a pedestrian is entitled to access to any land held under a grazing lease." I remember some years ago that on a piece of lease land we had at the time, there was a pipeline ditch across it. While it wasn't even my pipeline ditch, Halloween night came along and we were told by a legal person that we should either flag this pipeline ditch or we would be responsible and liable for anybody that got hurt in it. Notwithstanding all of the so-called wordage that's in this Bill, I still think that will take place.

The other object – and it's been dealt with a little bit, Mr. Speaker – is the reflection on hunting. All up and down the foothills and out on the prairies there has to be permission for hunting, because if the person is allowed to just go onto your land and hunt wherever somebody says there's a hunting season open without knowing the location of the livestock on there or the other animals that may be there or where the gates are or where the access and regress is to that land, it can cause continual hardships for the lessee.

I know that under the lease agreements people have with the Crown, they are required to fence it within a certain time. They are required to keep those fences up, and they're required to keep their animals under control while they're in there. They have to go in from time to time on certain leases and rejuvenate the grass. If you allow people to walk or drive on that lease on freshly worked soil in wet seasons in the spring, then the lessee, again, is responsible for maintaining that lease and bringing it back to a state that's responsible for handling the livestock that he grazes on it.

As I said before, Mr. Speaker, it's a great philosophy that all of the public land out there belongs to the people of Alberta, and it does, but there are people that have an agreement to lease that and to take care of it and to protect that fragile terrain that's there, and they do a very good job of that. There are areas in southern Alberta that have been managed for close to a hundred years now, and the grass is better there than it is in places that haven't been managed at all. There is an area of harvesting that goes on when you graze livestock on the lease, and that rejuvenates the soil in itself.

So I'm sorry, Mr. Speaker, that I can't vote in favour of this Bill because I don't think it's dealing with the reality of life out there on the ranchland and on the lease land of this province.

Thank you.

THE ACTING SPEAKER: The hon. Member for Leduc.

MR. KIRKLAND: Thanks, Mr. Speaker. I'll speak in favour of Bill 215. I listened to the minister's comments. Certainly I know that some of the situations he presented do in fact happen. It's unfortunate that not everyone is accountable and not everyone is reasonable.

When we look at Bill 215, I would call it a Bill of quality intent, a Bill that's attempting to balance the needs of not only the ranchers but I think of the general public in Alberta. Each day in Alberta there becomes less and less land for our growing number of citizens to spread out onto for general recreation and the likes of that. As I reviewed this Bill 215, I think one of the keys to it is the fact that it allows foot access to Crown grazing leases. Now, foot access, as the minister would know, generally speaking doesn't cause a lot of wear and tear on the land. Some of our more sensitive areas in the province, the mountains and the hiking trails that are in place there, have withstood the foot test for many years, Mr. Speaker, and I would suggest that the Crown grazing lease land would also withstand that particular test 99 percent of the time. Certainly one can't allow for a hundred percent of the time. As the minister said, in a perfect world perhaps we can – we realize it's not.

Now, as far as the vehicular traffic is concerned, Mr. Speaker, the way I read this Bill it would certainly be confined to designated trails. I thought I read it to suggest that some permission had to be received from the leaseholder before in fact you could enter the property with your vehicle.

The minister spoke about the hunting aspect of it. This Bill here does not give carte blanche permission for anybody to hunt on Crown land. It leaves that to regulations, and it leaves that to the government itself. I can envision where there are some very sensitive issues, that it might be next to dwellings and the likes of that, that could clearly be defined as no hunting at any given time.

I think the Bill itself, as I looked at it, really attempts to overcome some of the ambiguity that presently exists within the laws of Alberta. We would all recall a decision that came out of the courts here recently in Calgary. I believe it was the Seaman lease land, where in fact that ended up in the courts many times, as I recall the situation, and that of course would be at great expense. Now, this Bill attempts to address that and also keeps matters out of the courts, so I think that's positive.

The justification, I would suggest, for supporting the Bill, Mr. Speaker, would be in looking at the history of it. There was a government task force that was convened in '87 on grazing lease conversion policy, and that task force undertook a fairly extensive public hearing process. The task force recommended

- that the following principles be included in the access resolution on public land held under grazing lease disposition:
- foot access be allowed at all times;
  - vehicle use be restricted to established roads or designated trails, or by permission of the occupant to off-road lands.

Now, that task force really did not provide details as to how that should or could happen. Bill 215 attempts to point the way for those particular recommendations that were secured from public input in 1987.

The issue has not gone away. It's still with us today. It will continue to be with us. I would suggest that Bill 215, though it

may not be perfect – there's not a Bill in this House that is – is a step in the right direction. I think it would bring the matter to a discussion point where we will resolve it, again not perfectly but certainly will improve upon the existing situation.

I think the Bill would also be justified, Mr. Speaker, in the sense that when we look at common law such as the Occupiers' Liability Act or the Petty Trespass Act or the Public Lands Act, there are some deficiencies in all of those. The Public Lands Act is silent on a leaseholder's right to control access. The Occupiers' Liability Act, the Petty Trespass Act, and the Wildlife Act are inconsistent with one another. So there's a need to clarify that as well.

4:30

Now, the minister spoke of liability. This Bill also clearly indicates that the leaseholder would not be liable unless he was grossly negligent, and I think all leaseholders would welcome that particular aspect of the Bill. The Bill does try to be reasonable. It does recognize the needs of the ranchers. It attempts to balance that with public access. We cannot lose sight of the fact that Crown land is public land, and that being the case, I would suggest that the larger percentage of Albertans would be very respectful of Crown land, much as the larger percentage of Albertans are respectful of private land and seek permission before crossing and/or utilizing. That's certainly been my experience living in a fairly densely populated rural area that has some very unique stops in it that are on private land.

So, Mr. Speaker, I see the Bill as being positive. What presently exists today is not satisfactory. There are still some gaps. There are still some holes there. We are ending up more often than not in court attempting to resolve the matter. I think that's an unnecessary use of the courts and also a costly use of the courts for those who are attempting to determine whether Crown lands really are public lands.

Albertans have proven to be good stewards of their lands in the past, and I would say the same of the leaseholders. I understand the responsibilities that the minister spoke of, that as a leaseholder there are responsibilities for regenerating new grass growth or maintaining the lease in a satisfactory state or leasing it. From my hiking experiences I also understand that most Albertans are very respectful of sensitive areas. You would find that most on foot are very, very acutely aware and environmentally aware of the sensitivities of trekking across somebody's land.

[Mr. Herard in the Chair]

As I indicated, Mr. Speaker, I also thought the Bill addressed quite adequately the hunting component of it. The Bill recognizes that allowing hunting on Crown grazing leases is probably the most contentious issue around access and as a consequence has attempted to address that.

Now, in my own view of the situation, Mr. Speaker, I would suggest that by virtue of the fact that some of these leases have been in one leaseholder's name for many, many years, by possession of the lease they have assumed almost an ownership of the land and thereby have become very protective of it. Perhaps the other side of this discussion is to ensure that all leasehold land comes up for tender on a regular basis. We may be able to distill some of that ownership simply through the holding of leases year after year. I would suggest that that would ease it somewhat as well. I think it would become more of a situation where it retains some of the thoughts and views that the public has today, that Crown land is public land, being that it's Crown.

There's such a shortage of wide-open spaces for people to hike or enjoy the landscape of Alberta. As I indicated, with a growing population in this province, we certainly will run into conflicts more frequently with this issue. To leave it as it is, Mr. Speaker, I would suggest is not going to solve the problem. It will only have a tendency to put us into a position of conflict time and time again. I would suggest that the way to deal with it is with Bill 215.

I concede that the Bill is not absolutely perfect. It is a step in the direction of trying to resolve it. It clearly limits access by foot to Crown grazing leases, and I would suggest that most members that accessed or utilized that opportunity would in fact seek permission. It restricts vehicle traffic to designated trails. Again, I think it's easy enough when you have the leased land fenced to ensure that people seek permission before they enter it with a vehicle.

The Bill gives flexibility to the regulations in the decision about hunting on Crown land so that can be addressed in a formal sense. That would be very helpful I believe not only to the leaseholder but also to those individuals that practise hunting as a pastime. It also, I would suggest, Mr. Speaker, has a tendency to clarify some of the ambiguity that presently exists and cleans up some of the conflict in the existing Acts that deal with leases and public property or public lands.

So with those comments, Mr. Speaker, as I indicate, it's not perhaps the perfect solution. It moves towards addressing the problem. I would consider it a Bill of evolution. It certainly can be improved upon, but once implemented, I think we will see where there are deficiencies or where there is room for improvement, and I would suggest that in fact that will come as we implement the statutes that are presented in this particular Bill.

The other aspect of the Bill that I thought was positive is the fact that there's a mediation process, as opposed to going to the court for resolution if there's a dispute as to whether Crown leases should actually be open to public access, and I think that's a positive step.

So with those comments, Mr. Speaker, I would close by stating that I support the Bill. I think the Bill is moving in the right direction.

**THE ACTING SPEAKER:** The hon. Member for Little Bow.

**MR. McFARLAND:** Thank you, Mr. Speaker. I'm pleased to be able to make a few comments today that will respond partially to some of the comments I've heard during the course of the debate up to this point and maybe offer a bit of a balance from the perspective of somebody who is near, who owns and operates some of the Crown land that we're speaking about.

I found it interesting – I made a note – and have often wondered how many people who look at a piece of property and may understand that it is for all intents and purposes Crown land actually know whether or not it's deeded land or in fact Crown land. Many of the people that have come down to access land in our area, whether it's to hunt or to use it for recreational purposes, couldn't tell you who owns the land. In many instances they will only look for any permission to access the land if it has a fence around it. So I guess the first comment I have in relation to the Bill is that when it comes to a Crown lease, the people that are wanting and demanding public access to it in many instances I believe don't actually even know the status of the land when they drive by it.

I don't believe this is just an issue of access; it's also an issue

of public lands management and leaseholder rights. I'm aware of these issues because, as a member in an area where there is a sufficient number of Crown acreages, we have many sportsmen, recreational people, and the general public accessing or wishing to access this land much of the time. I am a firm believer in reasonable access, and well-managed hunting and recreation on deeded or leased land can be useful in terms of stewardship. Over the past 12 or 15 years I believe that's changed substantially with the number of requests that landowners and leaseholders have and continue to have, with access requests coming from the seismic companies, again from hunters, skidoo-ers, winter sports people.

The amount of respect for the land that exists today was lacking 12 or 15 years ago, and I'm happy to say that many of the people who access the land now have much more respect for the rights of the landholder than they did 12 or 15 years ago. Part of that, I believe, can be attributed to the change made within the department of agriculture, which has done a great deal to smooth its relations between landowners and leaseholders and those requesting specific access to the property.

The Use Respect program has certainly gained my respect. At one time, out of frustration, I would simply post on the land "no trespassing" and explain to people why their own abuse had caused me to do that. When I noticed some of the neighbours actually putting up the Alberta Agriculture sponsored program sign Use Respect with a contact telephone number, it caused me to ask them what kind of response they had had to the program. I was quite amazed that by posting the number, although I didn't want to believe it at first, even some of the people who had been in a situation similar to mine were more than pleased with the real respect that people from outside the area were suddenly paying to the landholder in terms of asking permission to simply use the land either for walking across or for hunting pheasants or deer or whatever the case may be.

It's these kinds of programs, though, that I feel will allow reasonable access, and I believe we have that today. Very few landowners – I say "very few" – would deny reasonable access unless they're concerned about the state of the land or some other issue regarding care of the livestock or the grass.

**4:40**

Leaseholders, like landowners, still need the ability to deny access at any time for reasonable reasons. For example, during harvest many farmers will have to be vigilant of their ripe crops and the swaths. I don't know if everyone's aware of it, but a vehicle simply crossing a ripened crop will tend to grab the straw, wrap it around the driveshaft or wrap it around the exhaust manifold, and pretty soon you've got a fire. In many of the areas where you've got strong winds and rural volunteer fire departments miles away, you end up with an equation for a potentially very harmful situation.

Personally, I've had good relations with people who want to access my land, but again it's only been after a number of years of frustration, where you had to chase somebody across a piece of property while you're on a combine because you could see them driving through your crop for no good reason other than they've spotted a deer or some game. They had no idea whose land it was and it wasn't paved, so they thought: "What the heck; it's there for driving. I've got a four-wheel drive truck. I'll just drive out to the deer and hope it'll stand around and wait for me to shoot it."

Most of the users that I've talked about have been able to explain in a satisfactory manner to most people wanting to access

their property why they have some caveats or restrictions that they're wanting to place on the land. That brings me to another point on the issue of allowing unrestricted access to grazing lease lands.

THE ACTING SPEAKER: Hon. member, I hate to interrupt your soothing debate, but under Standing Order 8(5)(a)(i) it provides for up to five minutes for the sponsor of a private member's public Bill to close debate before all questions must be put. Now, the hon. mover of this Bill is not currently available, so I'm in your hands.

The hon. Member for St. Albert.

MR. BRACKO: Thank you, Mr. Speaker. It's a privilege to stand up and to close on Bill 215, the Crown Grazing Lease Statutes Amendment Act, 1996.

Alberta's greatest natural resource is our land, and I believe this Bill is a step forward, a step forward that will bring a balance between the leaseholder and the public to utilize land. It's an important step forward, that through education and through working together we can utilize the land completely, fully, and in a safe, responsible way.

We have all gone through incidents that have happened to this land. We have our own deeded land where we've had disasters take place. I built a cabin on my own deeded land from logs hauled by horse. I did it myself with the family, and it was destroyed by people coming on: vandals, gun owners who didn't have respect. That's going to happen wherever you go. Whether it's deeded land or leased land, you can get people who are not responsible, people who haven't learned what it means to be responsible, but most people are responsible. People come to the country and they do foolish things, but they're quick to learn. And vice versa; others coming into urban centres have to learn certain urban traits. If we can utilize this land together in a wise and sensible way, it allows our greatest resource to be utilized.

We're talking about going in by foot. Again, any responsible person realizes that if there are horses or cattle, maybe that's not the land you go on. You also have to be aware of what's happening out there, and education of course is one great means of doing it. I appreciate the comment of the Member for Little Bow saying that the public is becoming more and more aware. What we also need is the public to be like the Neighbourhood Watch. The majority who use the land wisely should watch for those who don't: get licence numbers, report them to the authorities, or some means to eliminate this type of behaviour. This can be done.

The Environmental Appeal Board would have a great opportunity to resolve disputes. Now, this would be a board on which you would have leaseholders, ranchers, farmers, and others, so you'd have a balance between environmentalists, leaseholders, and also the general public. You'd be able to resolve disputes wisely as well as make other recommendations to the government, who can make orders in council to allow changes in rules and regulations to protect either the leaseholder or the public depending on what the problems or concerns are. Again, there could be orders in council about hunting. If there are elk destroying someone's land or haystacks, they should be allowed to get rid of them. I mean, that makes common sense. They would need to whether people were allowed to have access to the land or not. It's like any other problem. If there's a problem, it's up to the legislators here to recognize the problem, get back to the rules and regulations that would ease the problem, provide a solution, and move forward.

Hunters come whether it's leased land or private land. I have

my own quarter section of land. I had seven trucks hunting during the day without permission, and it said: "No hunting. No trespassing." That didn't work. They came anyway. So I took off the no-trespassing sign and invited people on. One autumn day I had 300 people on my deeded land picking berries and enjoying the beauty of the outdoors, checking the beaver dams, and so on. They took ownership of this land. These were their trails that they used, and they protected it. They watched over it. This is the type of thing we need on leased land, where the public has ownership. It is our land, the lessee and the public, and we look after this land. We don't allow things to happen that would be a detriment to our land, our greatest resource.

So it's important that we move forward. I ask members on both sides of the House to support this Act. It's a step forward. It's not a big step, but if it's done right, with the support of both sides and the Environmental Appeal Board, which would have members from all interested groups in a balanced way, we can eliminate some of the problems that are happening now and work towards a better and greater and wiser use of our greatest resource, Alberta's land.

[Motion lost]

### Bill 216

#### Crown Contracts Dispute Resolution Act

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

MR. JACQUES: Thank you, Mr. Speaker. I rise today to begin debate on Bill 216, the Crown Contracts Dispute Resolution Act, which stands in my name.

Mr. Speaker, I have proposed this legislation for a number of reasons. I think it's fair to say at the outset that alternative dispute resolution, commonly known as ADR, has been slow in being utilized in this province. If we look at the history of ADR in terms of the advantages, we see that it saves the court system time and it saves money. It certainly makes disputes far less costly, and I think it's fair to say that it can also be less adversarial. ADR can resolve conflicts more quickly, and it also provides people with a less formal, less costly, and perhaps less intimidating environment for dispute resolution. In summary, those are the reasons for my sponsoring the Bill at this time.

4:50

To reduce the court time and to reduce the costs to government and other parties, Bill 216 compels the government and the other party involved in a contract dispute to attend a meeting, or a "mediation session" as it is called in the Bill, to inform them of the alternative dispute resolution prior to going to court. Essentially, Bill 216 would require ADR to be included in most government contracts. Certain forms of contracts have been excluded from the Bill either because of their complicated nature or because they're already governed by binding forms of legislation presently in place.

If a contract fell in dispute under the proposed Bill, the procedure would work something like this. At the close of pleadings in an action or at the first stages of an action, the government and the party involved in the dispute contract will arrange for and attend a mediation session before any further action is taken; that is, before launching further court action. At the session the mediator, chosen by the parties or the court, will inform both parties of the alternatives of going to court and focusing on ADR.



These alternatives may range from any number of alternative dispute resolution mechanisms such as negotiation, mediation, arbitration, conciliation, private judging, neutral expert fact finding, minitrial, summary jury trial, and moderated settlement conferences, to say the least of some of them.

That's the beauty of ADR as I see it, Mr. Speaker, that it's highly flexible and virtually adaptable to any dispute situation that can arise. Also, by informing the parties of the ADR mechanisms, the likelihood of going to court will hopefully be diminished and therefore provide speedier resolution of the conflict and certainly at far less cost to each party.

Upon the conclusion of the mediation session the parties will basically receive a certificate of completion. Either party could then elect to continue with the court action. All they are required to do is to attend the mediation session in an attempt to identify an ADR mechanism that's acceptable to both parties. If the parties agree to continue with ADR, they can choose which form of ADR is best suited to resolve the dispute. If a party does not attend the mediation session, a certificate of nonattendance will be filed with the court, and the court may force the party to attend, strike out the pleadings of the party, terminate the process on terms the court considers appropriate, or grant any other relief deemed appropriate by the court. Nothing – I repeat “nothing” – in this Bill would prevent either party from then taking court action, and any evidence submitted during the mediation session is not admissible in court. One of the strengths of the Bill is that individuals need not be educated for years and necessarily practise law in order to be part of the dispute resolution process.

The reason that the Bill would only apply to government contracts is twofold. Firstly, I do not believe that ADR should automatically apply to all contracts in the province, and most certainly the private sector does not want government-imposed changes in that regard. Secondly, Mr. Speaker, by having ADR apply only to government contracts, the government has an opportunity to lead by example. I believe that if ADR is successful in Alberta government contracts, then private contracts not involving government will increasingly include ADR provisions. With Bill 216 the government can demonstrate its willingness to embrace changing forms of dispute resolution.

At this time, Mr. Speaker, I'd like to give a brief history of ADR. I think it will help us in understanding where this initiative came from. Its roots are really in the United States back in the days of legal reform, the civil rights movement of the late 1960s. Considerable internal conflict in the United States combined with a significant increase in the legislative creation of new causes of action resulted in the courts being inundated with litigants seeking to assert their rights and resolve disputes. Concerns about court congestion, excessive litigation, delays, and rising legal costs spurred the ADR movement in the United States.

In Canada our experience with ADR is substantially less. Although our problems with congestion, delays, and rising legal costs have not been at the same level as in the United States, Canada has responded to the ADR initiative. The ADR interest in Canada has no question been increasing over the last 10 or so years. The reasons for that increase include costs, increasing court delays, increasing cases involving litigation, international commercial businesses operating in Canada who almost essentially demand ADR, new professional activity in the area of dispute resolution, and certainly the desire to find new ways of resolving conflict.

It's interesting to note, Mr. Speaker, that Ontario had a task force examine ADR back in 1989, but to date no meaningful

action has been taken within that province. B.C. has had a similar examination and has yet to take any positive steps, particularly in terms of legislation. Interestingly, the federal government has been pushing its departments to put some form of ADR into its contracts since about mid-1994, but progress has been limited despite the encouragement of many government policymakers.

The only real progress that we can find to date in terms of Canadian jurisdictions has occurred in Saskatchewan. In 1994 the government of Saskatchewan amended the Queen's Bench Act to provide for mediation. The Saskatchewan legislation is not unlike Bill 216, only more broad in that it applies to all contracts whether or not the government is involved. However, the Act itself is part of a pilot project that is currently running in the province, and the provisions of the Act currently only apply to the Swift Current and Regina areas.

Essentially, the Saskatchewan Act compels parties to a disputed contract in those cities to attend a mediation orientation session to inform them of ADR prior to going to court. Again, evidence given at the orientation session is similarly not admissible, and if a party does not attend the session, the court may order their attendance at a session or some other remedy as it sees fit. Nothing in the Saskatchewan Act disallows either party from continuing with their court action.

The Saskatchewan Act has been in place for about a year, and surveys that have been done most recently have indicated that most individuals are pleased with the process used in the two areas of the province. All indications at this time point to the project being successful and one which will likely expand to the balance of the province within the very near future. As Bill 216 basically uses the Saskatchewan legislation as its basis, I believe that the passing of this Bill would bring similar successful results, albeit recognizing that it would be limited to government contracts only. I believe it is a start in the right direction. It's one which we do not presently have and one which could be the cornerstone for more formal ADR development in the future in Alberta.

It should be noted, Mr. Speaker, that the Premier's task force on construction contracts is expected to make a recommendation for including ADR in construction contracts by the province. Certainly some government contracts within the province do have ADR provisions, but the bottom line is that it has basically been a piecemeal approach. The presence of ADR in government contracts has been hit and miss. Effectively, Bill 216 would place ADR in every government contract. Any business dealing with the government would know that ADR was part of the contract and that there would be no ifs, ands, or buts. I believe that's consistency, it's predictability, and I think it's on side with what we're trying to do in terms of the issues facing Alberta.

We can also attract various corporations to perhaps do business with the Alberta government who, because of their international backgrounds, have really been seeking ADR provisions in order to do business here. I think it would help to get Alberta recognition internationally, particularly with the U.S. businesses, which again have requested ADR and have worked with ADR contracts for years.

There has been a concern expressed about the possibility of a retroactivity provision in Bill 216. I want to make it clear that Bill 216 would only apply to contracts which are signed after proclamation. I would suggest that an amendment at the committee stage would be required in order to clearly clarify that particular issue.

5:00

It has also been suggested that a general policy directive could accomplish the same impact as Bill 216, but regrettably in all the research that we see, there is no jurisdiction in Canada that can demonstrate the policy direction on ADR is successful. I believe we need a commitment to ADR, and that can only occur through appropriate legislation that is applicable to government contracts.

If we act today and pass Bill 216 – and I guess it won't be today, Mr. Speaker, assuming that the debate continues to at least 5:30. If we do go at a later date and pass second reading and go into the committee stage, I think we will have taken a major step. It will be a step that demonstrates our commitment to keeping the justice system cost-effective, to keeping it timely, and certainly looking at the issue of accessibility.

The choice is in the hands of all the members of this Assembly. We can either remain still in terms of status quo, or we can move forward. I believe that we have the opportunity to use our foresight to be proactive and to show that we can be a leader in this area. I believe that the choice we make will help Alberta be a leader in this particular issue. The choice I will make is to have an open, accessible, and user-friendly justice system which is complemented by an ADR mechanism, which certainly would be for the benefit of all Albertans.

I urge all members of the Assembly to join me in supporting Bill 216, and I certainly look forward to hearing the debate. Thank you, Mr. Speaker.

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

MR. GERMAIN: Thank you very much, Mr. Speaker. The Alberta Liberal opposition has always supported initiatives to reduce litigation and to reduce the friction between contracting parties and indeed between all members of society. In that regard it is interesting that today in Edmonton Interaction '96, the major conference of the Canadian mediation society, is meeting at one of the prominent business locations in Edmonton. On behalf of all Members of the Legislative Assembly I commend this particular national group for choosing the city of Edmonton and the province of Alberta to hold this convention, and we hope their convention is a successful one.

Now, the interesting aspect about the hon. member's Bill is that it requires court action and it requires litigation to have commenced before the mediation process kicks into place, so one must ask the hypothetical question as to why you would need this Bill at all. If the government truly wants to lead by example, it could make it an absolute policy rule that there was some form of alternate dispute resolution in each and every contract that it entered into. It wouldn't simply be restricted to binding arbitration. You can have binding arbitration as a recognition of failure to agree and use that in lieu of the courts, but you could have mediation even before you went to binding arbitration.

[Mr. Clegg in the Chair]

You know, in the standard insurance contract of the province of Alberta it is a requirement that before you issue a statement of claim to claim an insurance loss, you have to have filed a proof of loss. Those types of preliminary conditions precedent to issuing a lawsuit are not completely unknown in litigation and in civil law in the province of Alberta. So, too, if the government really wants to lead by example, they can simply say: "We don't

need any more legislation. We can simply install in each and every one of our government contracts a requirement that there be first mediation and then that there be, failing mediation, some form of binding arbitration." If the government truly wanted to avoid and reduce litigation, that would be the way in which they would handle it. Whether the contracting parties are the government and a contractor or two contractors or two individuals, you do not need statutory legislation to direct the terms and conditions of their contract.

Now, having said that, however, I do acknowledge that the Saskatchewan government is trying a mediation process overlaid through their Court of Queen's Bench, but my understanding is that that legislation was incorporated in their Queen's Bench Act and in their civil procedures of the province of Saskatchewan. One of the concerns that I think the hon. member who sponsored this Bill with laudable objectives will have to address his mind to is: will this Bill become a trap for the unwary? It will be isolated from the other major jurisprudence legislation. It is not an amendment to any of the legislation that presently governs the relationship of individuals in the court, so it will stand out alone as a trap to the unwary.

Now, there are a couple of ways that that could be rectified. One would be that the government in every case would have an onus of drawing this Bill to the attention of the people with whom they contract, as a positive onus, and the other way might be to contact the Court of Queen's Bench to see if they could be helpful in handling some aspect of this through their already very successful pretrial conference procedure.

Now, we have to also consider, Mr. Speaker, that for many years in the province of Alberta the Queen's Bench Act has governed the manner in which the Queen's Bench conducts itself. Through that legislation they pass a set of rules called the Rules of Court. It would be just as open for the hon. Member of this Legislative Assembly that sponsored this Bill to suggest, working through the Minister of Justice, that this process go through the Court of Queen's Bench. Every time you come forward with a Bill like this in the Legislative Assembly, while it speaks well about reducing the amount of litigation, it may be construed as a backhand criticism of the Court of Queen's Bench.

Now, Mr. Speaker, that brings me to a commentary about this court. Of course, as the members of this Assembly know, I am an active member of the Law Society of Alberta, and I can tell this Assembly that the Court of Queen's Bench of the province of Alberta has worked very hard to streamline and reduce unnecessary steps in the litigation process to encourage people to move together to resolve their disputes. They are working on pretrial conferences. They have case management for complex cases. Basically, the Court of Queen's Bench I am sure would want to be a participant in any of this particular legislation. So of course I will ask the hon. member when he closes debate to explain to us what consultive process, if any, he has had with the Court of Queen's Bench. Or is this another step to create a different model of the handling of judicial matters in the province of Alberta?

How could the hon. member reduce litigation and encourage mediation? He would do that, of course, by making it a mandatory obligation in every government contract. The flaw in this particular system is that you have to start the litigation first. So you've already hired a lawyer; you've already incurred the filing fees. Of course, Mr. Speaker, you will know that the Minister of Justice has increased filing fees of courthouse documents considerably over the last few years. The fees for court filings, like everything else, continue to go up and up and up. It seems to me

that if you could possibly mediate the parties into agreement, that process should take place before the litigation starts and not when the litigation has already commenced. The hon. member may want to look at whether he should structure it as a condition precedent to the litigation as opposed to a condition subsequent to the continuation of litigation that has already commenced.

In addition, we have to ask, Mr. Speaker, whether the government's motives relating to mediation are in complete balance with how the public will react to this. First of all, as between the government and the numerous private contractors with whom it deals, the government will always have the position of strength in terms of the local mediation community. You see, the government will be involved in every one of these mediations. Joe the contractor might only be involved in one every 10 years, Pete the locksmith may only be involved in one every 15 years, and Sam the supplier of paper products might only be involved in one every 20 years, but the government will be in each and every one of them.

Now, you will therefore after a while have mediators that may begin to lose their objectivity as it relates to cases between the government collectively and numerous single individuals. There might be some resistance and reticence for people to participate in the mediation process if they sense that the mediator, to continue to be nominated by the government, is in fact very pro-government in the approach and the massaging of the parties that the mediator takes.

Now, I appreciate, hon. member that sponsored the Bill, that that is not arbitration. The mediator will not make a final and binding decision. But you have to remember that a contractor is already feeling very sensitive when the might of the government is turned to bear on him in litigation. The government through the offices of the hon. Attorney General has a vast army of extremely competent lawyers, very experienced and specialized. They have a vast army of technical experts in virtually every field of expertise that they can draw from the entire civil service. Relative to an individual, a government that has a \$14 billion a year budget can hardly be said to be an impecunious litigant. They have unlimited financial resources and have in fact shown how much they can spend on court litigation historically in this province when the issue is burning and of concern to the government.

So there will be a disproportionality of bargaining position, and there will be a sensitization so that the contractor will feel sensitive to that. I suggest to the hon. member that he might want to wrap his mind around how this Bill could balance out those techniques.

#### 5:10

When you then go to the who's-going-to-pay stage, if the government really felt that there was advantage and if they really wanted to lead by example and if they felt that they would make significant savings in terms of overall litigation costs, why would they ask the individual contractor who might have a \$3,000 or \$4,000 argument with the government to pay half the costs of the mediation? What if the contractor, Mr. Speaker, has done nothing wrong? We have in the judicial system in the province of Alberta a system of the awarding of court costs, which do not represent a total recovery of your legal fees but represent a small per-service charge if you are successful in the litigation. That is a balance to ensure that the person who is proven right in the litigation does not end up being all wrong because of the high cost of legal fees. So the hon. member may wish to consider that particular issue in the consideration of Bill 216.

I conclude, Mr. Speaker, by indicating that the Liberal opposition supports mediation and alternate dispute resolution wherever it will be of advantage to Albertans, but in supporting those particularly important forms of dispute resolution, we should never turn our back on the Court of Queen's Bench, that has served this province honourably and works very hard to resolve disputes in a cost-saving manner and in a quick manner. The hon. member, I know, in his final concluding comments may want to speak of what consultation, if any, there has been with the Court of Queen's Bench already in the province of Alberta on this issue.

The other thing that the hon. member might want to address is that many disputes between the government and individuals might be below the \$4,000 threshold small claims limit, and maybe at some point the small claims court will start hearing some of these cases as well. One has to wonder whether the arbitration or the mediation might be useful at that level as well.

That concludes my comments, Mr. Speaker, on this interesting initiative by the hon. Member for Grande Prairie-Wapiti.

MR. KOWALSKI: Mr. Speaker, Bill 216, the Crown Contracts Dispute Resolution Act, is a rather interesting one. I spent some time in the last several days reading it, and I want to make a few comments. I'm generally supportive of the Bill, and I think it's a positive initiative. I welcome not only the comments made by the sponsor of the Bill but also those provided by the distinguished gentleman from Fort McMurray with respect to this.

Mr. Speaker, when we live in a world of impecunious litigants, a quote that my distinguished friend used a minute or two ago and perhaps one he would be in a position to define for all of us who are laymen in this area and not really distinguished people of jurisprudence, one really would go forward. That's a great phrase, "impecunious litigant," one I'll use on a daily basis as I tromp up and down the streets of Barrhead-Westlock. As I meet people, I will ask them if they fit that category or not. One never ceases to learn.

Mr. Speaker, I want to make just a few brief comments today from two perspectives: one as a former deputy minister of transportation in the province of Alberta and one as a former minister of the Crown. In the areas that I was in, the environment and public works and transportation as well, one constantly ran into a situation where someone was doing work with the province of Alberta as a contractor. There always seemed to be differences of opinion, not in the vast majority of cases but in a small minority of cases. The whole question of dispute resolution and mediation was always one that came to the fore. It always struck me, as I had to deal with these files and I had to listen to the arguments put forward by those who were in the public service and those who were representing the contractors, that I never could understand why I as a minister of the Crown or a deputy minister had to be in a situation in essence to attempt to find a resolution to the two of them. Fortunately, in the late 1970s we took some pretty significant initiatives at least in the department of transportation to set up a process in consultation with the industry, a process that in fact saw very, very few cases ever end up in court, Mr. Speaker. A mediation process was put in place, and it worked very, very successfully and has worked for almost three decades now. Certainly the same kind of philosophy was applied in other departments that I had the benefit of being the minister of as the years have come and gone.

There are situations, I think, where unfortunately because of personalities or the like people are forced to go to the courts, and in the court situation there are two words, it seems to me, that

pop out. One is the time factor associated with it and, secondly, the cost factor associated with it, Mr. Speaker. The Bill that's put forward by the Member for Grande Prairie-Wapiti this afternoon basically talks about some initiatives, some alternatives for dispute resolutions other than taking the time and the cost of the court to deal with. I know the hon. member has talked about such words as negotiation, mediation, arbitration, conciliation, private judging, neutral expert fact-finding, the opportunity for a mini-trial, summary trial juries, and even moderated settlement conferences. All are examples of things that can be put in place to in fact arrive at a resolution before one goes to a costly and time-consuming situation.

There's one example I remember, Mr. Speaker, of one contractor who basically had a problem with the government of Alberta, and I think it took over 10 years, 11 years perhaps, before a settlement was reached. The settlement included virtually all the types of mediation that one would hope to arrive at, including resolutions of the court, and in fact even involved people who were gifted in jurisprudence from another jurisdiction, another province in Canada to come in and review the file. Decisions were finally made, and arrangements were finally arrived at, but that length of time seemed quite incredible to me: more than a decade in terms of dealing with a dispute between a contractor and, in this case, the government of Alberta.

I do recall an event in the mid-1980s, when I was then the minister of the environment, where a subcontractor working on a major contract project in the province of Alberta, not from Canada, not from North America but from another part of the world, had won a rather substantial contract to work on a rather large construction project in the province of Alberta, and there was a difference of opinion. It was a subcontract on the Oldman River dam.

I was visited one day by a solicitor representing the particular subcontractor, again who was not from North America and who basically thought that they could walk into a minister's office and very simply after an hour's discussion receive a bundle of cash and walk away in a harmonious feeling of resolution. In fact, they even arrived in my office that day with an empty briefcase, really believing that I was somehow in a position to open a safe in my office and take out – in this case, \$20 million is what the request was in terms of resolution. It was a very interesting discussion that did not last, Mr. Speaker, I want to assure all hon. members, the hour that was appointed, was set up for it. It lasted in fact less than five minutes, and I was told that this particular big international company would never, ever, ever invest a penny in the province of Alberta or the country of Canada because that's not the way we should be doing business here, and in fact we should be doing business here the same way they did it in the country of origin of those people.

So, Mr. Speaker, we have to have some positive ways of dealing with these things, and the principles initiated by the Member for Grande Prairie-Wapiti today I think are well worthy of attention by the individuals in this particular Assembly, notwithstanding that there are a fair number in this Assembly who are trained in jurisprudence. I sincerely hope that none of them would ever suggest that it might alleviate some of their opportuni-

ties to make some dollars in the marketplace if this kind of process were implemented. I would never, ever avow such motives to any of them, but it will be of interest to see which hon. members do stand up and provide counterarguments to the principles initiated by this particular Bill this afternoon.

The point of it all, Mr. Speaker, is that we increasingly need to find ways to reduce the time factor for those who are involved in business in the marketplace if there is to be a resolution with someone else and in particular if there's to be a resolution with a government and in this case the government of Alberta. Secondly, we have to find a resolution to reduce the amount of dollars that will be faced by an individual who will come forward with a difficulty and, in this case again, in particular a difficulty with the province of Alberta. I stand up because I'm a member of this particular Legislative Assembly, and I think it's really important. If we want to provide a variety of new initiatives in Alberta, we have to focus on those two things which are big money factors in the marketplace: the time factor and the cost factor.

5:20

Mr. Speaker, the hon. member spent a great deal of time with respect to this particular matter. He's given an overview of it. There were some interesting comments raised by the Member for Fort McMurray with respect to this, and I'm sure that the Member for Grande Prairie-Wapiti will in fact be responding to those particular questions. For me I think the bottom line is the simplicity of it and the clarity of the Bill. No great debate in terms of when we get into committee on this having hon. members have to go through clause by clause and say: but what does this mean, or what does that mean? It is very clearly written in the language of the day, which is the new clear language that much of our legislation should in fact be following. In fact, it comes right down to the bottom line that there should be a dispute resolution mechanism set in place before individuals have to go to court and take up the time of the court. The courts surely should be chasing criminals and not spending all their time trying to mediate between those who are involved in a civil difficulty.

So I'm supportive of this particular Bill. We'll have an opportunity, I'm sure, during committee to raise additional questions on specifics of the Bill.

Mr. Speaker, we've had a very, very aggressive afternoon of work in this particular Assembly, and at this point in time I would suggest that I have the opportunity to move adjournment of the debate at this time.

**THE ACTING SPEAKER:** The hon. Member for Barrhead-Westlock has moved adjournment of debate on Bill 216. All those in favour, please say aye.

**HON. MEMBERS:** Aye.

**THE ACTING SPEAKER:** Opposed, if any? Carried.

[The Assembly adjourned at 5:23 p.m.]