Legislative Assembly of Alberta

Title: Tuesday, August 20, 1996 1:30 p.m.
Date: 96/08/20
[The Deputy Speaker in the Chair]

head: **Prayers**

THE DEPUTY SPEAKER: Today's prayer is an excerpt from one said in the Ontario Legislature.

Let us pray.

Our Father, give to each member of this Legislature a strong and abiding sense of the great responsibilities laid upon us.

Give us a deep and thorough understanding of the needs of the people we serve.

Help us to use power wisely and well.

Inspire us to decisions which will establish and maintain a land of prosperity and righteousness where freedom prevails and where justice rules.

Amen.

head: **Presenting Petitions**

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

MR. DICKSON: Mr. Speaker, thank you. I'm pleased this afternoon to table a petition signed by 1,307 Calgarians urging the Legislative Assembly to ensure

> that the Calgary General hospital (Bow Valley site) remain open and fully operational as a "hospital", [and continue to service] the needs of the inner city, the City of Calgary, and the rest of Southern Alberta as has been the case for more than 100 years.

THE DEPUTY SPEAKER: The hon. Member for St. Albert.

MR. BRACKO: Thank you, Mr. Speaker. I present a petition on behalf of 62 students from St. Albert high school to

> petition the Legislative Assembly of Alberta to urge the government of Alberta to maintain Catholic school boards and to oppose any move to amalgamate Catholic and public school boards.

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

MR. BRUSEKER: Thank you, Mr. Speaker. It's my pleasure to present a petition from 106 Calgarians who, notwithstanding the *Calgary Herald* newspaper, believe that the Calgary General hospital, the Bow Valley site, should remain open, as it has for more than 100 years, and they request the Calgary regional health authority and the government of Alberta to ensure that it does so.

MR. DICKSON: Mr. Speaker, one further petition. This one signed by 207 Calgarians urges the Legislative Assembly of Alberta to ensure that we "maintain a full complement of health services for veterans at the Colonel Belcher Hospital."

head: **Reading and Receiving Petitions**

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

MR. ZWOZDESKY: Thank you, Mr. Speaker. I would request that the petition I tabled a few days ago in this Legislature surrounding health care needs now be read and received.

THE CLERK ASSISTANT:

> We the undersigned residents of Southern Alberta, petition the Legislative Assembly to urge the Government of Alberta to suspend hospital closures in Calgary, and immediately hold an independent public inquiry on health facilities in the city.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Mill Woods.

DR. MASSEY: Thank you, Mr. Speaker. I request that the petition I tabled last week in the Legislature now be read and received.

THE CLERK ASSISTANT:

> We the undersigned petition the Legislative Assembly of Alberta to urge the Government to maintain Universal Medicare.

THE DEPUTY SPEAKER: The hon. Member for St. Albert.

MR. BRACKO: Thank you. I request that the petition I presented last Thursday be read at this time.

THE CLERK ASSISTANT:

> We, the undersigned, petition the Legislative Assembly of Alberta to urge the Government to maintain operation of the Bow Valley Centre with a 24 hour emergency service.

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

MR. SAPERS: Thank you, Mr. Speaker. I request that the petition which I tabled in this Assembly regarding the need to fund protease inhibitor drug therapy for those patients afflicted with AIDS and HIV now be read and received.

THE CLERK ASSISTANT:

> We, the undersigned residents of Alberta, petition the Legislative Assembly to urge the Government of Alberta to develop a drug approval process which reflects the rapid evolution of drug therapies in the battle against HIV/AIDS, and which reflects the urgency of health management needs of those living with HIV/AIDS.

head: **Notices of Motions**

MRS. BLACK: Mr. Speaker, pursuant to Standing Order 34(2)(a) I'm giving notice that tomorrow I will move that written questions stand and retain their places.

I also give notice that motions for returns appearing on the Order Paper stand and retain their places with the exception of motions 199, 200, 203, 204, and 205.

head: **Tabling Returns and Reports**

MR. JONSON: Mr. Speaker, today I would like to table five copies of the response to Motion for a Return 191.

Further, Mr. Speaker, I'm pleased this afternoon to table with the Assembly the annual report of the College of Optometrists for the year ended December 31, 1995.

Thank you.

THE DEPUTY SPEAKER: The hon. Minister of Advanced Education and Career Development.

MR. ADY: Thank you, Mr. Speaker. I wish to table five copies

of the following annual reports: Grande Prairie Regional College for the years 1992-1993 and 1994-1995, Red Deer College for the year 1993-94, Fairview College for 1994-95, Lethbridge Community College for 1994-95, and the Northern Alberta Institute of Technology for 1994-95.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Speaker. This afternoon I have two tablings. The first is from the Edmonton Inter Agency Committee, who strongly endorse Bill 214 and put forward some recommendations to make the Bill even stronger.

The second is from the Pastoral Institute of Edmonton, who also endorse Bill 214 and have some comments about why this Bill is very necessary to end domestic violence in this province.

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

MS HANSON: Thank you, Mr. Speaker. This afternoon I have two tablings as well: a letter from the Alberta Association of Registered Nurses endorsing Bill 214 and recommending some changes to make it stronger and a letter from the Edmonton Community and Family Services to Neil McCrank, Deputy Minister of Justice, copied to myself, supporting the Bill and also making a few recommendations for strengthening it.

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

MR. BRUSEKER: Thank you, Mr. Speaker. I have two tablings today. The first is a letter from the YWCA of Edmonton written to the Minister of Justice supporting Bill 214, copied to the Member for Edmonton-Highlands-Beverly, saying that they support Bill 214 and would like to see it passed through this Legislative Assembly.

The second tabling, Mr. Speaker, is a letter from Ms Patricia Bruns of Calgary, who is opposed to Bill 214 and would not like to see it passed and writes that letter to the Premier, who chose not to table it.

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

MR. DICKSON: Mr. Speaker, thank you. Three documents to table. Firstly, a copy of my letter dated July 31, 1996, to the Hon. Lawrence MacAulay, the Secretary of State for Veterans Affairs. The letter was preparatory to a meeting I had in Ottawa on August 1 relative to concerns of veterans relative to the Colonel Belcher.

The next item is a copy of a letter to the hon. Minister of Justice dated August 13 from the Calgary immigrant women's association indicating their support for Bill 214.

Finally, a copy of a letter written to one of my colleagues from Dorothy Clancy, a resident on Saskatchewan Drive in Edmonton who indicates her opposition to Bill 214.

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

MR. ZWOZDESKY: Thank you, Mr. Speaker. I'm tabling a copy of a report titled Health for All Albertans, which was recently co-ordinated and distributed by the Alberta Public Health Association and deals extensively with the issue of low literacy, which includes at least 480,000 Albertans who admittedly have limited literacy skills. This group has asked me to advocate on behalf of adults with low literacy skills, and I'm very pleased to do so.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Meadowlark.

1:40

MS LEIBOVICI: Thank you, Mr. Speaker. I have four documents to table this afternoon. The first document is a reprint from the *Pittsburgh Post-Gazette*, February 11 to 14, 1996. It's entitled A Question of Skill: Will Patients Pay the Price?

The second is an abstract of a two-year study published in 1993 by E.C. Murphy re Cost-Driven Downsizing in Hospitals: Implications for Mortality.

The next two documents are reprints from *Hansard*, both of February 15, 1996, where myself and the hon. Member for Calgary-Fish Creek asked the Minister of Labour and the chair of the Council on Professions and Occupations regarding the regulations that were being passed behind closed doors regarding licensed practical nurses.

Thank you.

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

DR. PERCY: Thank you, Mr. Speaker. I'd like to table three copies of a letter from the board of governors of the Alberta Stock Exchange to the hon. Premier and Provincial Treasurer that set out the objections of the board to the Canadian securities commission.

head: Introduction of Guests

THE DEPUTY SPEAKER: The hon. Member for Barrhead-Westlock.

MR. KOWALSKI: Thank you very much, Mr. Speaker. Today in the members' gallery are a number of visitors from the province of Ontario and the province of Alberta. They're here as part of a 4-H exchange program under Connections Canada. The Alberta chaperon is Mrs. Rhonda Kaliel, and the chaperon from Ontario is Mr. Richard Brandon. They're assisted by adult helpers Don Clark, Barb Clark, Ruth Forbes, Eileen Tomlinson, and Kathy Howrie. There are 11 young people from Ontario, 14 from farms throughout Alberta in the Busby, Fawcett, Vimy, Tawatinaw, Dapp, Morinville, and Thorhild areas. I'd ask our visitors to rise and receive the warm welcome of the Assembly today.

THE DEPUTY SPEAKER: The hon. Minister of Advanced Education and Career Development.

MR. ADY: Thank you, Mr. Speaker. It's with pleasure that I introduce to you and to members of the Assembly some members of the Council of Alberta University Students. This council represents students attending the four universities in Alberta, and I had the pleasure of meeting with these student leaders today. They're seated in the gallery, and I'd like to ask them to please

stand as I call their names. I'm not positive that I have all of them; it seems there are more there than I have names for. I will go with what we have: Garett Poston from the University of Alberta, Nicole Stogrin of the University of Alberta, Hoops Harrison from the University of Alberta, Gordon Squirell of the University of Alberta GSA, Afzal Upal from the University of Alberta GSA, and Jay Krushell from Athabasca University. I'd ask all members to give these students the warm traditional welcome of the Assembly.

THE DEPUTY SPEAKER: The hon. Member for St. Albert.

MR. BRACKO: Thank you, Mr. Speaker. I am honoured to present to you and Members of the Legislative Assembly eight great Albertans who built our province. They are seniors from my constituency and from the constituency of Spruce Grove-Sturgeon-St. Albert. They are Marie and John Peachey, Grace Newman, Lorraine Dauphinais, Marie St. Martin, Therese Arcand, Carlee Adams, and their assistant Leif Gregersen. I'd ask that they rise and receive the warm welcome of the Legislative Assembly.

head: Oral Question Period

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

Health Department Restructuring

MR. SAPERS: Thank you, Mr. Speaker. For more than a week now the over 1,200 employees of Alberta Health have been left wondering how in the world their job is going to be done. The Minister of Health's hatchet is about to dismember programs responsible for population health services, environmental health, mental health services, Alberta Aids to Daily Living, health information, and most disturbing of all, the centralized program for communicable disease control. How can the minister live up to his responsibility to ensure program monitoring, evaluation, and patient safety throughout the province of Alberta when he plans to cut over one-half of his staff?

MR. JONSON: Mr. Speaker, we have undertaken a review of the Department of Health. It is going to be a department focused around accountability, performance measures, providing support for the best possible health care in this province. In terms of what the hon. member across the way is referring to, those areas of responsibility, if he'd read the document carefully, are in what is a consolidated, flatter administrative system within the Department of Health, where people are going to be focusing on the core business ahead of them.

In terms of the overall staff reductions, I could provide the hon. member with technical details there, but this is in keeping with Health's overall business plan.

MR. SAPERS: Nowhere in the plan did it say that they were going to gut communicable disease control, Mr. Speaker.

Now, how can this Minister of Health keep repeating the myth that the cuts in health care are over when nearly 700 more people who today are working to keep this system intact are about to lose their jobs?

MR. JONSON: Mr. Speaker, it is no myth that we are focusing resources on the front line within the department. We want that to happen throughout the health care system, and we are focusing on core areas, which I think even a few hon. members across the way would agree with. We're setting standards in the core areas of health performance. We're collecting health-related data and making information available so decision-making in the health system is soundly made in this province.

In terms of addressing those areas that the hon. member just mentioned plus all the other areas and responsibilities of Alberta Health, we are focusing on those. [interjections] We are coming up with a more efficient structure. If the hon. member had taken the trouble to read the entire document . . . [interjections]

Speaker's Ruling
Decorum

THE DEPUTY SPEAKER: Order. [interjections] Order. Hon. members, a question has been asked of the minister. It's incumbent upon all hon. members to listen to the answer, just as it is incumbent upon all hon. members to listen to the question.

So, hon. minister, in conclusion.

Health Department Restructuring
(continued)

MR. JONSON: . . . he would note that in the overall plan for our restructuring in the department there is very specific reference to the steps that will be taken in terms of individual cases, and the agreements and provisions of contracts will be honoured.

MR. SAPERS: Mr. Speaker, maybe the Minister of Health will read his own report before he comments on it publicly. If he did, then he would see what's in the report.

Mr. Speaker, will the Minister of Health put the brakes on this very dangerous plan now, at least until the rest of the system has stopped reeling from the effects of all of the other cuts that you've imposed?

MR. JONSON: Mr. Speaker, the whole point that the hon. member across the way does not seem to get is that we are restructuring our department to be more effective, to be more supportive, to be able to serve and help that system out there, which the hon. member purports to be concerned about.

Communicable Disease Program

MS CARLSON: Mr. Speaker, Conservative policies resulting in overcrowded schools, unregulated seniors' boarding houses, poor sanitation in hospitals, and increasing poverty mean that the risk of the spread of communicable diseases like TB has increased dramatically, yet at the very time that Albertans should be most vigilant, this government is undercutting our central public disease monitoring and control mechanisms by laying off half of their staff. Will the Minister of Health tell Albertans exactly how the few remaining staff who are the frontline workers, Mr. Minister, will be able to deal with controlling communicable diseases and explain why he is dismantling one of the few programs in this province that works?

1:50

MR. JONSON: Mr. Speaker, what is occurring is that Alberta Health is still retaining the function of monitoring and evaluating and managing the whole area of communicable disease, but the actual laboratory functions will be made effective in the two major cities.

MS CARLSON: Will the minister explain how a gutted communicable disease control program will address Edmonton's rate of TB, which is 25 percent higher than the provincial average? You can't do that on half the staff.

MR. JONSON: Mr. Speaker, we are not, quote, gutting the communicable disease program in this province.

MS CARLSON: It's half the staff, Mr. Speaker.

The people in this province want to know why the minister is putting TB research in jeopardy at a time when it's re-emerging as a major health risk.

MR. JONSON: Mr. Speaker, there is nothing being done to jeopardize tuberculosis research in this province. The research function, the research capability in Health is well known in this province, and as far as communicable diseases are concerned, they will get their appropriate attention.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Meadowlark.

Licensed Practical Nurses

MS LEIBOVICI: Thank you, Mr. Speaker. On February 13, 1996, this government said that it would not change the regulations regarding the scope of practice for licensed practical nurses without consultation. It appears that sometime soon, if it hasn't already happened, this cabinet will change those regulations behind closed doors without consultation, this despite the Minister of Health knowing that the de-skilling of health care workers has an effect on the mortality rate, on the rate of infections, and does not provide significant cost savings in the long run. My questions are to the Minister of Health. So that everybody knows, what is the current status of the licensed practical nurses' regulations?

MR. JONSON: Mr. Speaker, the area of this professional legislation falls under the minister responsible for professions and occupations, but I would indicate, before asking him, with your permission, to comment, that there are still several steps in the consideration and approval process to any change in LPN regulations which must be proceeded through.

The other thing is that it is my understanding that there has been discussion with LPNs over this particular matter. Further, Mr. Speaker, it is my understanding that any change in scope of practice is very much related to additional appropriate training. I would ask the other minister to comment, please.

THE DEPUTY SPEAKER: The hon. Minister of Labour to supplement.

MR. SMITH: Thank you, Mr. Speaker. In fact there is significant public consultation. There is in fact in place a Health Disciplines Board that makes recommendations but only after the consultation process has been undertaken. There may be more again from the chair of the Council on Professions and Occupations to speak to this, but remember that the proposed changes will be forwarded to the Council on Professions and Occupations, and then they're considered by the normal and due process of this government. That has been reflective of all processes and changes.

MS LEIBOVICI: The normal and due process of this government is to make decisions behind closed doors. Will the Minister of Labour quit making decisions behind closed doors and send the regulation to the Standing Committee on Law and Regulations? Also, will the chair of the council make the minutes of the Health Disciplines Board public before regulations are passed?

MR. SMITH: Mr. Speaker, there may be closed minds on that side of the House, but there are certainly not closed doors on this side of the House. The proposal considered by the regulatory review standing policy committee and ultimately cabinet – the processes are the same today as they were three years ago. They reflect consultation, reflect examination. Unfortunately, I was not able to see the Labour critic at meetings that I attended as chair of the Health Workforce Rebalancing Committee, where we had continual consultation with hundreds of professional members in many locales throughout this province, and that good work was continued by the hon. Member for Medicine Hat after I left. Indeed, there has been ample and wide consultation.

THE DEPUTY SPEAKER: Final supplemental, Edmonton-Meadowlark.

MS LEIBOVICI: Thank you, Mr. Speaker. I was at some of those meetings.

Will the minister outline the steps that have been taken since February to ensure that there has been public consultation on the regulations for the licensed practical nurses? What are those steps? Outline them.

MR. SMITH: Mr. Speaker, the member is assuming that the regulations are in front of me with the changes proposed. That is not in fact the case. We will be coming forward in due process of government policy development.

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

Parole System

MR. JACQUES: Thank you, Mr. Speaker. The Liberals have time for gay rights, but they don't have time to protect our families from known killers. The Liberals had time to change legislation dealing with sexual orientation, but the Liberals don't have time to eliminate section 745, known as the faint hope clause. Yesterday we learned with outrage and disbelief that one of the scumbuckets of our society, Clifford Olson, convicted sex slayer of 11 children, has applied for a judicial review pursuant to section 745. All my questions are to the Minister of Justice. What action have your department or you taken, Mr. Minister, in the last year to let the Liberals know of our concern and outrage in Alberta regarding section 745?

MR. EVANS: Mr. Speaker, I think the best reference would be back to a meeting that I attended with justice ministers from across Canada in Ottawa in May of this year. Section 745, the judicial review, was on that agenda, and on behalf of our government and the people of Alberta I made the very strong position that that legislation should be repealed. It should be repealed because it does not give sufficient review and concern for the rights of victims and for their families. It is not a fair balance in the view of the government of the province of Alberta, and we believe that those who are charged with heinous crimes and are spending time incarcerated in our prisons should spend the full 25

years that they have been sentenced to before they are eligible for any kind of a review before the courts or otherwise.

MR. JACQUES: Mr. Speaker, what action will you be taking to let the Liberals know that section 745 is repugnant to all Albertans?

MR. EVANS: Well, Mr. Speaker, after that meeting we had in May, the opinion that I got back from the federal minister was that although he was not prepared to bring forward a repeal provision to section 745, he was prepared to bring forward legislation in the House of Commons that would severely restrict the application of section 745. He did introduce legislation in the spring session of the House of Commons. It did not get through the House; it was not passed. He has indicated that it will go back before the House in the fall.

It will certainly be the position of the government of the province of Alberta that that legislation should receive quick passage and that there should be adequate opportunity to make amendments to the legislation when it's up for debate in the House of Commons. Again, it's our hope that the amendment would be that the section itself would be repealed.

2:00

THE DEPUTY SPEAKER: Final supplemental, Grande Prairie-Wapiti.

MR. JACQUES: Thank you, Mr. Speaker. As the Minister of Justice, can you describe what action or intervention you are prepared to take in order to ensure that Clifford Olson is not released on parole?

MR. EVANS: Well, Mr. Speaker, we're talking about a piece of legislation here. I don't think it adds anything to the debate and to the rational review of this legislation to deal with specific individuals. I certainly wouldn't want to make a comment about a specific case that's before a judicial review that might have any impact on the hearing itself and the outcome of the hearing.

Certainly with respect to the issue, the issue of those who murder and those who are convicted of that kind of a heinous crime, it is our position that those individuals pose a continuing threat to society and that the rights of law-abiding citizens, particularly the rights of the victims and their families, should be respected. As a result of that, we will continue to lobby and to argue that the section itself should be taken out of the law of Canada, appreciating of course that that is federal jurisdiction and appreciating as well, Mr. Speaker, that all of us in this Chamber and Albertans generally should be talking to their Members of Parliament and encouraging them to be as vocal as they possibly can to argue for the repeal of this section.

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

Colonel Belcher Hospital

MR. DICKSON: Thank you, Mr. Speaker. Two weeks ago more than 240 members of the Royal Canadian Legion from all over southern Alberta met in Calgary to discuss the future of the Colonel Belcher hospital. They said very clearly that they wanted to keep the Belcher hospital for veterans, but it appears that the Calgary regional health authority may have some other plans. My question would be to the hon. Minister of Health this afternoon. Why are there two empty floors in that hospital when there are veterans on a waiting list for beds?

MR. JONSON: Well, it's my understanding, Mr. Speaker, that the building itself has much square footage beyond current needs. The floors that are currently being operated are being operated for the veterans. In terms of a waiting list, I assume that they are accommodated in other facilities. Perhaps it is their particular preference to move there. In terms of the numbers that are quoted, perhaps there is a list of veterans whose preference would be the Belcher, but I have no indication from anyone that there are any veterans needing this type of care that are not being accommodated in Calgary.

THE DEPUTY SPEAKER: First supplemental, Calgary-Buffalo.

MR. DICKSON: Thank you, sir. So long as there is such a waiting list, will this minister undertake this afternoon that no use will be made of the empty floors for any purpose other than veterans or veteran-related services?

MR. JONSON: The basic obligation of the regional health authority, which in no way are they avoiding, Mr. Speaker, is to provide care to the veterans of past wars and past conflicts. That is being done. The regional health authority is fulfilling their obligation in that regard.

In terms of the physical facility, it is my understanding that there are some four floors of that building that are not currently in use. The overall future use of the Belcher hospital is being reviewed, as I outlined yesterday in answer to a question, by a task force set up in conjunction with the RHA with a majority of veterans' representatives on it. The whole future of that particular facility is being reviewed, and there is going to be no closure of the Colonel Belcher, that sort of thing, or any other consideration of a major change in the use of the facility until such time as that committee has done its work.

MR. DICKSON: My final question, Mr. Speaker, to the hon. minister would be this: why is Alberta the only province in Canada that charges an additional fee for those veterans in a private room?

MR. JONSON: Mr. Speaker, it is my understanding that the hon. member is incorrect, and I will certainly undertake to provide him with the basis for my answer.

THE DEPUTY SPEAKER: The hon. Member for Bow Valley.

Kitchener School

DR. OBERG: Thank you, Mr. Speaker. With school opening just around the corner, parents want to know that they have all arrangements finalized for their children. The parents of students attending Kitchener school in the town of Empress learned that their school is being closed and that they must find an alternative school for their children before classes begin in September. This is the second closure this community has endured, the first being the acute care portion of their hospital. My question is for the Minister of Education. Can the minister explain why the Kitchener school in Empress is being closed?

MR. MAR: Mr. Speaker, the decision to close a school is always a difficult one to make, but at the end of the day it is school

boards that must rationalize to their constituency of students and to their constituency of families based on a combination of declining enrollments and economies of scale. The boards have to rationalize those services to their communities, and I also have to be comfortable with the basis of the rationale provided by the school board. In the case of the school in Empress, the enrollment for grades 1 through 6 was a total of 14 students, and the enrollment projections show a low of eight students for the year 1999.

As I said, Mr. Speaker, these are always very difficult decisions to make. There are declining enrollments, and school boards are faced sometimes with very tough decisions because the school has been such an integral part of their community. In this case the school board did go through the proper process of having public meetings to explain to parents what the consequences of the school closure were. I'm satisfied that they went through all of the required procedures, and accordingly that is the reason why this school is being closed.

THE DEPUTY SPEAKER: First supplemental, Bow Valley.

DR. OBERG: Thank you, Mr. Speaker. Empress parents are very concerned over long bus rides to neighbouring schools and the loss of the school as a focal point in the community. Can the minister tell me what options have been offered to parents?

MR. MAR: Mr. Speaker, just maybe a little bit of additional information to my first answer. I forgot to mention that Empress is close to the Alberta/Saskatchewan border, and of the 14 students, nine are from the province of Saskatchewan. The Kindersley school division in Saskatchewan has been paying tuition for their students to attend the school in Empress.

At the public meeting that I referred to, the school board did lay out the options for parents. I understand that there is a school in Bindloss, which is approximately 25 kilometres away, and another one in Acadia Valley, which is about 32 kilometres away. Those would be the closest alternative schools, and transportation would be provided to those students.

THE DEPUTY SPEAKER: Final supplemental, Bow Valley.

DR. OBERG: Thank you, Mr. Speaker. This decision makes it extremely difficult for the town of Empress to attract young families. Was this considered by yourself or by the local school board?

MR. MAR: Mr. Speaker, as the Minister of Education my concerns revolve around the issues of education and not with respect to economic development.

2:10 Fort McMurray School District

MR. GERMAIN: Empress is not the only school area with difficulties, Mr. Speaker. Fort McMurray students will return to school this fall with some of the highest teacher/pupil ratios in the whole province. Since the cuts started in 1993, the Fort McMurray public school district has been cut harder than any other school district in the entire province. This year that school board faces a $500,000 cut. My first question to the Minister of Education is this: why has the Fort McMurray public school district had to bear the largest, the lion's share of the education cuts in this province?

MR. MAR: Mr. Speaker, with respect to the funding framework for school boards throughout the province of Alberta I can assure the hon. member that all school boards have been treated fairly. If he has a particular concern with respect perhaps to any cuts with respect to administrative costs, then I'd be happy to address those.

MR. GERMAIN: Since the minister says that all schools have been treated fairly, perhaps the minister might answer this puzzler. Why is it, Mr. Minister, that schools lying 400 kilometres or further from Edmonton get a 10 percent markup for their building upgrades but Fort McMurray, lying 435 kilometres, only gets 6 percent?

MR. MAR: Mr. Speaker, I'd be pleased to undertake to look into that question.

MR. GERMAIN: Another puzzler, then, for the minister: since all school districts across the province are complaining that the bus grants do not carry the load, why doesn't the minister just take over busing and get it done cheaper if he thinks he can deliver that service?

MR. MAR: Mr. Speaker, as the hon. member no doubt knows, the issue of transportation is being looked at by a committee headed up by the hon. Member for Whitecourt-Ste. Anne. When the results of that inquiry have been made, I'm certain that I'll be able to make that available to him.

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

Seniors' Benefits Program

MR. RENNER: Thank you, Mr. Speaker. My questions today are to the Minister of Community Development. Many seniors in my constituency have expressed support for recent announcements of enhancements to the special-needs assistance program offered under the Alberta seniors' benefit program. They are concerned about what they perceive as a very low application approval rate for special-needs assistance. Can the minister inform this Assembly about what the approval rates are and what the criteria for approval are?

MRS. McCLELLAN: Mr. Speaker, indeed on June 24 as part of our government's reinvestment strategy there was an additional $22 million invested in seniors' programs. Certainly part of that was the special-needs program, and the criteria for that program were expanded. I have to give credit to the Member for Calgary-Currie, the chairman of the Alberta seniors' council, to colleagues in the Legislature, in particular the Member for Edmonton-Gold Bar, who passed on some advice and concerns that she received that truly have enhanced this program. I appreciate the advice that I received from all members in this House on both sides. One of the areas of concern was the rather rigid criteria for that program, so it was expanded to handle what could be seen as a very true special need.

I can tell the hon. member that the application approval rate has risen to 55 percent at this time. That's about the latest information I have. Now with the expanded dollars that are allowed, which is up to $5,000 for a single person or a couple – it was at $500 for a single and $1,000 for a couple – the average grant, an average figure, is over $1,700.

Mr. Speaker, the special-needs program, I believe, is working.

The advice that I have back from seniors' groups such as the interagency council is that it is effective, but certainly we're monitoring that program, and we're prepared to look at improvements to that if members have further advice for us.

THE DEPUTY SPEAKER: First supplemental, Medicine Hat.

MR. RENNER: Thank you, Mr. Speaker. Well, the fact remains that the approval rate last year was extremely low, and I'm pleased to hear that the numbers have come up. Can the minister explain why the numbers have risen so significantly, and more importantly can she assure members of this Assembly that that approval rating number will stay at acceptable levels?

MRS. McCLELLAN: Mr. Speaker, the approval rate will certainly depend on the validity of the requests and the fact that this is truly a special-needs program. To give members an example of how the criteria have changed, I asked the question: if you're a senior in this province, it's 40 below, December 21, your furnace quits, and you have $50 in the bank, what do you do? The answer clearly wasn't that you apply and wait for six weeks or whatever a normal approval process would take. So we have given the regional officers across this province the authority to react in a very quick manner to look after incidences such as that. It could be also a very unexpected high health cost such as a specialty drug that is added to others, although we have a very good program there.

So, Mr. Speaker, I expect that the application approval will improve even further, but I think what we want to remember is that this is for special needs. It is designed to give seniors the security and safety that we all want them to have. So, again, I encourage members to give me the feedback they get from the seniors in their areas so that we can continue to improve this very important program for seniors.

THE DEPUTY SPEAKER: Final supplemental, Medicine Hat.

MR. RENNER: Thank you. Well, given the positive results from the enhanced program, can the minister explain why many seniors are experiencing decreases in their regular Alberta seniors' benefit program package?

MRS. McCLELLAN: Actually, Mr. Speaker, a good many seniors are seeing an increase in their program package because as a part of the reinvestment announcement there was also an automatic increase to seniors who are living in subsidized housing, in lodges and rental assistance housing. However, there are some seniors, I would say some over 60,000 seniors, who will see some decrease. In many cases it is a very few dollars, but that is entirely based on increased income. So if a senior's income situation improves, yes, their benefit package does go down. I would remind all hon. members that once you reach I think it's the age of 72, you are required to start withdrawing RRSPs, and certainly that adds to the income line of many of our seniors.

Mr. Speaker, there have been no changes to the program that would negatively impact the seniors on the amount of benefit that they can receive. In fact, as I indicated, the only change to the program has a positive impact on the cash benefit to seniors.

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

Securities Regulation

DR. PERCY: Thank you, Mr. Speaker. The province of Alberta and this Treasurer have apparently agreed to the proposed memorandum of understanding that sets out a Canadian securities commission. This is hardly a national commission, because Quebec and British Columbia are not participating. They fear a one-size-fits-all approach to securities' regulation based on the Ontario Securities Commission. Now, this is important because the Alberta Stock Exchange, the Alberta Securities Commission have been highly successful innovators in providing equity financing for emergent and existing Alberta firms in the high-tech, biotech, information services, and resource sectors. My questions are to the Provincial Treasurer. How does the Provincial Treasurer reconcile his support for the draft memorandum of understanding with that of the opposition of the board of the Alberta Stock Exchange and their view that the current framework, with some modification, best serves the needs of Albertans?

2:20

MR. DINNING: Mr. Speaker, that's one of the best questions that I've heard from the Liberal benches since this House began some 56 days ago. You know, the hon. member very generously tabled in the Assembly this afternoon a letter from the Alberta Stock Exchange to the Hon. Ralph Klein and the Hon. Jim Dinning. May I read some of this letter? I think the member makes a very good point. The letter, signed by the president and vice-chairman, says:

> Capital formation in Alberta has been exceedingly successful, particularly in the emerging and mid-cap corporate sectors. This success can be directly attributed to the ongoing and timely responsiveness of your Government [the government of Alberta] and the securities regulators of this province . . .
>
> Your own [speaking to the Premier and to the Treasurer] self funding initiatives in relation to the Alberta Securities Commission have helped to enhance and strengthen the securities regulatory regime in Alberta.

So, Mr. Speaker, I'm glad to hear that the hon. member is in support of the work that this government has done, working in cooperation with the industry, to strengthen the financial sector in this province. I know that the hon. member is concerned about this initiative, about this idea that has come forward from the Liberal government in Ottawa. The Liberal government in Ottawa has proposed this, and while we believe that the idea is worthy of consideration, we have expressed an interest in negotiating a memorandum of understanding, but no such memorandum of understanding has yet been signed by the Alberta government.

THE DEPUTY SPEAKER: First supplemental, Edmonton-Whitemud.

DR. PERCY: Thank you, Mr. Speaker. How can the Provincial Treasurer stand there and argue that they have not endorsed the memorandum of understanding when the provinces of British Columbia and Quebec have clearly rejected the memorandum because they do not want a regulatory framework in place that preserves the status quo and prevents the Alberta Stock Exchange from being the innovative, financial institution it is and can continue to be?

MR. DINNING: The question is: how easily can I stand and discuss the matter of a memorandum of understanding? Very easily, Mr. Speaker, because not only is there not yet a final

memorandum of understanding; there is no MOU. There is a draft; I have seen several drafts. But the hon. member cannot stand in his place today and file in this Assembly a signed copy of the memorandum of understanding because it has not been signed.

What I find interesting is that this Liberal member is standing in his place in this Assembly and honestly, which is typical of this member, saying that this Liberal is one more Albertan in a growing list of Albertans who does not trust the Liberal government in Ottawa, Mr. Speaker.

DR. PERCY: Well, Mr. Speaker, I won't reply to the editorial comment of the Provincial Treasurer. It doesn't bear comment.

I will say, however, in my question to the Provincial Treasurer: will the Provincial Treasurer commit to circulating any memorandum of understanding or any proposed agreement with regards to a Canadian securities commission, submit it for review, circulation, and public comment before his signature or any signature of this government goes on the document? Will he commit?

MR. DINNING: The short answer to that question is yes. But you know me better than that, Mr. Speaker. I'm not known for short answers, unlike my ministerial colleague in Community Development. I want to give the whole facts that this is an idea worthy of consideration. I think the hon. members would agree that duplication and overlap in the administration of the securities industry in this country doesn't make sense, and where there's a way to get rid of that fat and get rid of the duplication in administration and to improve the efficiency and effectiveness of our markets, the hon. member would agree that that is the right thing to do.

Mr. Speaker, I appreciate his commenting on the Alberta Stock Exchange and what it has said to the provincial government. We value this input. This is the industry speaking in volumes. I repeat from this letter. They said:

> We agree that there is merit in any initiative which seeks to achieve uniformity of legislation and securities regulation across Canada. However, these goals should not be pursued without permitting initiatives which may be uniquely suited to regional capital markets.

What I'm glad about is that here's the Alberta Stock Exchange confirming and fully agreeing with the Alberta government position.

Physician Supply

MR. BENIUK: Mr. Speaker, there's been considerable media coverage over the past several months regarding physicians leaving Alberta to continue to practise in other parts of the world. This has raised some concerns about the adequacy of supply of physicians in our province. Could the Minister of Health comment on the number of doctors in Alberta and respond to those concerns?

MR. JONSON: In a profession such as medicine there is always, of course, a certain changeover in the personnel that are available to the system in Alberta through retirements, through moving to other locations, and also a considerable number coming to the province, Mr. Speaker, and it fluctuates during a year. For instance, this year at the beginning of the year there was a slight net outflow of physicians, and now during the last three months the number of physicians is increasing in the province.

I think the important thing here, Mr. Speaker, is to look at this in overall terms. In the last decade, the last 10 years, the number of physicians in Alberta has increased by 50 percent. During that same period of time the population of the province has grown by about 10 percent, and during the past billing year for Alberta Health the number of physicians billing the system has increased by 5 percent.

MR. BENIUK: Mr. Speaker, could the minister advise the House whether or not we have had any success in attracting physicians to Alberta to replace those that have chosen to leave or retire?

MR. JONSON: Mr. Speaker, I would comment and focus particularly, I think, on the area which is of most focus in the coverage of this matter in Alberta, and that's in the area of recruitment of specialists. Yes, it is always a challenge for a health care system to attract specialists, highly qualified people, in some of the needed areas, but during the last period of time there's been the successful recruitment of a pediatric cardiologist from Ontario to Edmonton, a pediatric emergency toxicologist has moved to Calgary from the U.S., and three specialists in the areas of intensive care, hematology, and emergency health have relocated to Edmonton. Also, a stroke specialist and a vascular surgeon have relocated to the province.

So I think that, yes, there are some cases where attractive offers elsewhere cause a specialist to relocate, and that is always of concern, but the province is obviously attractive to specialists. I commend those that have been working on this recruitment.

MR. BENIUK: Mr. Speaker, there have been some specific concerns regarding the availability of rural physicians in Alberta. Could the minister offer some insight with respect to what is happening in that area?

MR. JONSON: Mr. Speaker, it is an ongoing concern that we have, an ongoing challenge that we have within the system, and that is to have provided adequate physician services in some of our rural areas. As I have mentioned previously in the Assembly, we do have a rural physician action plan. That plan had some 2-plus millions of dollars added to its budget this year, and it deals with things such as helping with student loans when a new graduate moves and takes up a location in a rural area for a period of time. It provides for dealing with compensation packages where there is a low volume of work but still a great need for medical services. We are having some success in filling the positions that are needed out there in rural areas, and we are continuing to work in that area.

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

MR. HENRY: Thank you very much, Mr. Speaker. [interjections] They're begging for mercy, Mr. Speaker. They're begging for mercy.

2:30 Catholic School System

MR. HENRY: Mr. Speaker, I have an important issue that I would like to raise today. In 1994 this government reversed the 1988 provisions that allowed Catholics in this province to govern their own school system, but when the government tried to take away the rights of Catholics to govern their own systems, the Catholics in this province challenged that, and as a result of that, today Catholic ratepayers and Catholic school supporters can

direct their taxes to their own system. I want to be really clear here. This is not a matter of how much money, because the formula for Catholic and public is the same, but it is a matter of who governs the allocation of those dollars. So I'd like to pose questions to the newly appointed Minister of Education, and I welcome him to his portfolio. Could he please provide to me and to members of this House and Catholics across the province the rationale that would lead to a situation whereby a family with one parent Catholic and the other parent not Catholic with children who are attending a Catholic system are not able to send all of their property taxes to their local school board which has opted out of his collective pool system?

MR. MAR: Mr. Speaker, I believe that the history of this issue bears some repeating. Many people will recall the time when they allocated their taxes on their property tax form to either being a public school supporter or a separate school supporter. People will also recall the time when undeclared property taxes simply by default went to the public system. One of the important changes that was made to make funding of Catholic education more fair in this province was that eventually that change was made so that a pro rata share of the undeclared property taxes would go to support the Catholic school system.

Subsequent changes were made, Mr. Speaker, that would allow people to simply allocate their taxes, but that ultimately became unnecessary due to changes that were made that simply divided the property taxes into a single fund and allocated it on a pro rata basis. So if 75 percent of kids went to the public school system and 25 percent of the kids went to the Catholic school system, that is how it would be divided. That was not subject matter of trying to take away anything from the autonomy of Catholic school boards. It is simply a matter of ensuring that we do have fair funding of students regardless of whether they're in the public system or in the separate system.

MR. HENRY: Mr. Speaker, perhaps the minister didn't hear my question. As I said in my preamble, this is not a matter of how much money; it's a matter of who governs the allocation of those dollars.

I'd like to ask perhaps another question of the minister in the same vein. If a non-Catholic family chooses to send their child to a Catholic school system because of an alternative program or a specialized program such as learning disabled or because of geography, doesn't the minister think it's reasonable that that family should also be able to participate in the governance of that system by sending their taxes to that system and voting for those trustees?

MR. MAR: Well, Mr. Speaker, it seems to me that the allocation of dollars is the critical issue. Ultimately it's the student that decides where that money goes. If a student attends a Catholic school, then that's where that pro rata share of per capita funding goes, and if they attend a public school, that's where it goes. So we should concern ourselves with issues respecting education and not with respect to issues of tax collection.

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

MR. HENRY: Thank you, Mr. Speaker. If the minister doesn't want to talk about money, let's talk about franchise. Can the minister please explain his government's rationale that leads to a situation in a mixed-faith marriage where there is one Catholic and one non-Catholic who marry and choose to send their children to a Catholic school yet the non-Catholic parent is not able to vote for the trustees who govern that system? What kind of rationale is that?

MR. MAR: Mr. Speaker, certainly this is an issue that has been raised by Catholic schools and something that we've had a great deal of discussion on.

head: Members' Statements

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

Gaming by Nonprofit Organizations

MR. WICKMAN: Thank you, Mr. Speaker. I'm going to speak today a bit about nonprofit casino gaming in the province, and I hope that the minister of lotteries has the opportunity to review my comments.

If we go back a number of years, in the early '70s casinos were getting off the ground for charitable groups. A lot of groups were hedging their bets – let's use that expression – as to whether they wanted to get involved, but those that did made some very, very good dollars for their organizations and did a lot of good in the community.

I was involved with some of those groups, and one of the things that really helped us in those early stages was what were known as independent advisers. An independent adviser was hired by the nonprofit group, the charitable group, and that adviser was accountable to the group, not to the management people of the casino. That adviser assisted in the count room, would file financial statements, file them with the provincial government, would balance the books; in other words, would ensure there was no hanky-panky, that everything was clean and every dollar went in accordance to how it should have gone. Now, there is some question as to whether those advisers are going to remain independent, and it is very, very important that they do remain independent and that they remain accountable to the organization that is putting on that charity, not to the operator or from the management point of view.

I think it's important as we change regulations pertaining to these casinos that the maximum benefits go to the charitable organization, not to the operators. We have to recognize that the major stakeholders in gaming in nonprofit casinos are the charities, and they're the ones that have to be consulted. They're the ones that have to be assured that the management costs are being kept as low as possible, because increases, escalations in management costs which are occurring of course end up costing the charitable groups. It takes dollars away from those groups which could otherwise do good.

In conclusion, Mr. Speaker, as my two minutes run out, I want to table four copies of concerns that have been raised by people involved in the casino gaming industry in Alberta that I would hope the minister has the opportunity to give his full attention to.

Thank you.

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

Electoral Boundaries Commission

MR. DUNFORD: Thank you, Mr. Speaker. Yesterday during the debate on Bill 46 I was expressing some disquiet with the report of the Electoral Boundaries Commission. You may recall that I

was indicating my disappointment with the fact that a commission authorized by this government would go out, hold extensive hearings throughout the province, and then really not listen to what the people had indicated to them. I was concerned about what this might mean in the future for other people, then, that were being asked to go out and listen on behalf of the government to the people of Alberta. I implied in my remarks that perhaps there was a hidden agenda, and I made reference to the fact of the movement of rural seats to the urban areas.

Well, Mr. Speaker, it has been brought to my attention that there may not have been a hidden agenda at all, that in fact the agenda may have been there from the first. I didn't see this, but someone was mentioning to me that really from the get-go the commission was determined that they were going to take two seats from the rural area and put one in Calgary and one in Edmonton. Now, based on that particular information, if it is true, I am even more concerned than I was yesterday, because now we have a situation where the government is putting together a commission, asking them to go out and listen to the people of Alberta about electoral boundaries and then come back with a report. In this particular case it seems that they had the idea right from the start.

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

2:40 Education Taxes in Jasper

MR. VAN BINSBERGEN: Thank you, Mr. Speaker. I would like to take this opportunity to focus the attention of all members on the plight of the people of Jasper as it relates to education taxes. As part of the restructuring of the delivery of education, the government has taken over the distribution of the education portion of the property tax with a view to providing more equitable funding to the different jurisdictions. The government has also instituted a provincewide mill rate of 7.12 based on the assessed value of properties, which was designed to ensure that taxpayers across the province would more or less be paying the same amount in educational taxes. This scenario did not take into account the special situation in the town of Jasper, where the assessed value of a property is by and large twice as high as the provincial average because of the restriction of land that can be developed. Consequently, Jasper taxpayers have been faced with a 100 to 500 percent increase in their educational taxes.

The previous Minister of Education established the National Parks Committee to study this problem. This committee recommended last fall that Jasper's mill rate for residential properties should be reduced by .46 of a mill. No decision was made by the minister. In May of this year I wrote to the present Minister of Education requesting that he accept that particular recommendation. Unfortunately, cabinet turned a deaf ear to this recommendation but limited the increase in the education tax to 25 percent per year. That will still result in the people of Jasper ultimately paying more than twice the amount of education tax that other Albertans pay.

Mr. Speaker, I submit that the people of Jasper have been treated unfairly, and I appeal to the government to correct this situation.

Thank you.

THE DEPUTY SPEAKER: We have one point of order called by the hon. Member for Fort McMurray. Would you be prepared to elaborate, please?

Point of Order
Argumentative Questions

MR. GERMAIN: Thank you very much, Mr. Speaker. My point of order arises under the text *Beauchesne*, points 409, 410, and 491 and in part 409(1), (4), and (7) thereof. The point of order refers to the question that was asked by the hon. Member for Grande Prairie-Wapiti.

Returning to the citations that I have made, members will recall that the question in its distillate was what the provincial government's position was going to be on the issue of one section of the Criminal Code that relates to convicted murderers applying for parole, a section in the Criminal Code that has been there for some considerable years and I believe was put in place by a Conservative government at the federal level. Be that as it may, recently the federal government has taken broad-stroked initiatives on law and order, and my concern about this particular question was the tone in particular of the preamble.

Now, under section 409(1) of *Beauchesne* it indicates that questions "must be a question, not an expression of an opinion, representation, argumentation, nor debate." This particular Speaker's Chair has ruled on numerous occasions that inflammatory comments expressing opinions, whether they be directed about the Premier or about other governments or about any subject matter, are to be avoided in this Legislative Assembly because they evoke similar responses and bring the Assembly into disorder.

Subparagraph (4) also indicates that the question must "be on an important matter, and not be frivolous." While I agree that the issue of law and order in the country is in fact a very important matter, the two words are not separate and apart; in other words, it must be important and not a frivolously delivered question. A question that begins by reciting an alleged litany of sins of the federal Liberal government and indicates in part in one of its statements that they have time for gay rights but no time for victims' rights is frivolous and inflammatory beyond much that we have heard in this Legislative Assembly.

Now, we also look at subsection (7) of the particular points. Subsection (7) indicates that

> a question must adhere to the proprieties of the House, in terms of inferences, imputing motives or casting aspersions upon persons within the House or out of it,

in this particular case aspersions cast on political issues and political matters raised by other levels of government.

The member is entitled, with respect, Mr. Speaker, to have all the personal outrage he wants and to be personally shocked and to be shocked and outraged as much as he wants, but he is not in my respectful estimation and in my submission entitled to disrupt the House with the kind of scandalous comment and innuendo that he made in his particular question today. That was particularly upsetting because of course question period is televised from this Legislative Assembly and watched by numerous individuals, and that was particularly scandalous. [interjections]

You know, Mr. Speaker, some of the hecklers say "Who's the kettle?" and "Calling the kettle black." Well, when I have asked questions in this Legislative Assembly and people have risen on points of order, I've listened to their points of order and abided by the Speaker's ruling. Now I'm making a point of order on another member's question, and I want to pursue it.

MR. DUNFORD: Your skin is so thin for such a big fellow.

MR. GERMAIN: I have extremely thick skin, for that heckler

who thinks my skin is thin. I have all the requirements to be a legislator. I have a brain the size of a pea and skin as thick as a water buffalo.

I want to direct the Legislature's attention to rule 491 of *Beauchesne*:

> The Speaker has consistently ruled that language used in the House should be temperate and worthy of the place in which it is spoken. No language is, by virtue of any list, acceptable or unacceptable. A word which is parliamentary in one context may cause disorder in another context, and therefore be unparliamentary.

For all of the hon. member's outrage and for all of his shock there was a proper and an improper way to ask a question about one section of the federal government's Criminal Code. I suggest that on this particular occasion, Mr. Speaker, he crossed that line. His question was improperly delivered and inappropriately delivered, and he should apologize to this Legislative Assembly.

MR. DAY: Well, first, Mr. Speaker, it should be noted, with possibly one exception on our side of the House, that everybody listened quietly to the member as he was stretching to make a point of order, and I do want to say "stretch." In all the times that I have forced myself to listen to this member, I have never heard such a desperate, desperate attempt at trying to cover up and, like so many cockroaches under the light that goes on, scurry for cover when a member stood to raise an issue that is timely, very timely.

The possible application for parole by Clifford Olson, one of the most revolting and notorious murderers this country has ever seen, that that is not timely – and he tried to obliquely deflect when he said "frivolous." But to try and suggest that this matter is frivolous is horrendous beyond words. So I'll stop on that particular suggestion there.

I'll go on on the point of order though. He cites 409 very superficially. I wonder, and the question comes to mind: has he ever sat up late in the wee hours of the night and watched the televised proceedings of question period? Has he ever listened to himself and other members on his side of the House when they ask questions, questions that are absolutely loaded with innuendo, prefaced with the most outrageous suggestion every day in this House? I hardly think this is something that's new to him.

I would suggest the Blues will show, Mr. Speaker, that the Member for Grande Prairie-Wapiti did not load his questions with innuendo, but what in fact caused the members opposite to scurry was the use of the word "Liberal." That is a Liberal policy, to allow horrendous people like Clifford Olson to actually even apply for parole, and as they scurry for cover, I would like to ask – though they can't answer here, so the question is somewhat rhetorical – how many of them have written letters to the federal minister saying that this is a horrendous policy that must be changed.

When the Member for Grande Prairie-Wapiti talked about timing, he was making a historical comment that in fact the Liberals have spent a lot of time promoting issues like gay rights – that's just a historical fact – and very little time addressing this horrendous issue of people like Clifford Olson even being allowed to apply for early parole. Even being allowed to apply.

So I would suggest, Mr. Speaker, that there is no point of order here whatsoever. It's a point of panic on the part of the Liberals.

2:50

THE DEPUTY SPEAKER: Well, the hon. Member for Fort McMurray has raised a point of order on the preamble to the question asked of the Minister of Justice and Attorney General by the hon. Member for Grande Prairie-Wapiti. Part of the objection lies under *Beauchesne* and of course under our own Standing Order 23(j), if memory does serve me right: "uses abusive or insulting language of a nature likely to create disorder."

Now, indicating that some group supports Clifford Olson is touching a sore point with ever so many people, and then trying to make that out as the faint hope clause – and that's a policy to help people like Clifford Olson – is moving it along a little bit. The question is clearly whether or not the preamble was provocative, likely to invite further debate on its own. I think the Blues would need to be considered.

The hon. Government House Leader has made a very good point when he suggests that other members of this House, presumably on both sides, have put some provocative language into their preambles, which from time to time the Chair has made comment on or has waited for points of order to be made relative to the provocative language in the question. I think the hon. Member for Fort McMurray has clarified somewhat by his defence and tried to distinguish what may be construed as Liberal policy from the framework that the hon. member appeared to be putting it in. So in that sense the point of order at least clarified his colleagues' position, whether federal or provincial colleagues.

The Chair would observe that while the point of order is well taken, the response of the Government House Leader is also well taken; that is, we need to collectively and individually govern ourselves more appropriately in our phraseology and try in the future not to incite further debate by unnecessarily using provocative or abusive language.

I think the point has been clarified now, and the hon. member has received the point of the Chair. We'll leave the point of order at that: a commendation to all to respect each other in our questions and the phrasing of our questions.

We also have a further point of order that needs to be gone into at this time.

Point of Order
Tabling Documents

THE DEPUTY SPEAKER: Yesterday, August 19, 1996, the hon. Minister of Public Works, Supply and Services raised a point of order. The hon. minister covered a few subjects, but in essence his point of order dealt with alleged duplicate tablings by the hon. Member for Spruce Grove-Sturgeon-St. Albert. The allegation was that the same letter had been tabled by the member on March 12, 1996, and was tabled again on August 15, 1996. The hon. minister referred to Standing Orders 23(i) and (l).

The Chair undertook to review the matter, and after reviewing the documents, the Chair notes that the hon. member did table the same document twice. This document is sessional paper 713/96 and sessional paper 1271/96. This is not, however, the only instance of the same document being tabled twice. The hon. Member for Sherwood Park tabled a letter on August 14, which is sessional paper 1214/96, which the hon. Member for Edmonton-Glenora tabled the next day, which is sessional paper 1272/96. Clearly, this should not be allowed to continue.

The Chair has been troubled about the nature of some of the tablings over the last few days and would like to take an opportunity, then, to make some other comments about tablings. Members will note that our Standing Orders do not elaborate on the issue of tablings except with respect to the number of copies and the place in the daily routine. What members may not realize is that Alberta has one of the most permissive policies with

respect to the tabling of documents, but it has not been comprehensively commented on by Speakers, perhaps because it has not been used and abused to the extent that it has in the last few days.

Members are reminded of Standing Order 2, which directs the Speaker to rule on unprovided contingencies based on precedent and parliamentary tradition. The Chair would also refer to paragraph 1 of *Beauchesne*, sixth edition, which lists among the principles of parliamentary law "to secure the transaction of public business in an orderly manner" and to preserve order and decorum and "prevent an unnecessary waste of time."

In terms of precedents, Speaker Carter was quite firm in various rulings concerning tablings involving correspondence. He ruled that correspondence tabled must be signed and dated; for instance, March 16, 1990; May 1, 1991; and June 19, 1989. Some of the tablings that have been presented in the last few days are no more than typewritten messages. A member should not be able to type out a note to himself or herself and table it. That practice should not be allowed to continue. Members who table such documents will be ruled out of order and the document considered not to have been tabled.

With respect to duplicate tablings, clearly this cannot be allowed to continue. Members must police themselves and be responsible for their actions.

With respect to comments made during tablings, the Chair would remind members that only the most basic description of the document to be tabled will be allowed. The Chair would refer members to the Speaker's ruling of April 11, 1995, on this subject. At that time the Speaker made a statement that is worth repeating.

> The Chair wishes to avoid a situation where either the volume of tablings or the time spent in the Chamber on tablings becomes such that tablings have to be done through the Clerk's office, as is the case in some jurisdictions.

In short, the Chair would call upon all members to exercise some good judgment about tablings.

Members should be aware that they are responsible for what they table in this Assembly. If their tablings offend the practices of the Assembly, they will be held to account. The Chair is concerned that if every tabling has to be scrutinized, then the time for tablings will be such that the practice would have to be seriously reviewed.

While the Chair is commenting on tablings, mention must be made that excerpts from *Hansard* are not appropriate tablings, as the words contained are in fact on the record and tabling, therefore, is really a redundant action.

head: Orders of the Day

Speaker's Ruling
Private Members' Bills

THE DEPUTY SPEAKER: The Chair would like to clarify for members the order for private members' public Bills today. The Chair would refer members to Standing Order 9(1), which states that all items, except Government Bills and Orders, shall be taken up in the order of precedence "assigned to each on the Order Paper." Given the evolving nature of this order of business since the Standing Orders were amended in 1993, this is the first time this issue has been addressed by the Chair.

Today under Public Bills and Orders Other than Government Bills and Orders we have Bill 216 with 38 minutes left at second reading and Bill 214 scheduled for Committee of the Whole. The deadline for starting consideration of Bill 214 in Committee of the Whole does not expire under Standing Order 8(5)(c) until tomorrow. Private members' Bills have, however, come up for consideration prior to the date they are due when the member has wanted the matter to come up prior to that date. In this instance, the issue is really what matter has precedence.

Accordingly, the Chair rules that when debate is continuing on a stage of a Bill or when the Bill is before committee and the time has not expired and the deadline for consideration of another Bill has not come, then the consideration of that Bill, in this case Bill 216, will be allowed to continue until completion or voted upon. The next order of business, then, would be the Bill that the member wants taken up early, and in this case it would be Bill 214. So we have before us 216.

head: Public Bills and Orders Other than
head: Government Bills and Orders
head: Second Reading

3:00

Bill 216
Crown Contracts Dispute Resolution Act

[Adjourned debate August 14: Mr. Collingwood]

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

MR. COLLINGWOOD: Thank you very much, Mr. Speaker. Continuing debate on Bill 216, the Crown Contracts Dispute Resolution Act. I adjourned debate last day by recalling for hon. members very specific circumstances that we have faced and we have seen with the government dealing with its contracted parties that are caught in a litigation.

Now, Mr. Speaker, we are of course dealing with a private member's public Bill, so I am indeed, sir, cognizant of the fact that it is not a government versus nongovernment debate that's occurring. It is in fact to debate an issue brought forward by a private member for debate amongst colleagues on both sides of the House as to the merits of a particular Bill without a partisan nature to the Bill. Nonetheless, we have to recognize that this particular private member's Bill does deal with parties, Albertans, that contract with the provincial government for goods and services and who at some point after the fact find themselves involved in a dispute over some aspect of the agreement for the delivery of those goods and services.

[Mr. Clegg in the Chair]

What I had suggested to hon. members last time is that we had a specific circumstance, which I recalled as I was going through the Bill, dealing with the provincial government: a company that was suing the provincial government, being Opron Construction, and the enormous difficulties that particular litigant faced in dealing with the provincial government. What I had suggested is that while it certainly may not have been the intention of the hon. member who introduced this particular Bill, I was concerned in that there was specific evidence and a specific statement made by the Attorney General for the province of Saskatchewan in his review of the Opron Construction matter relating to the Paddle River dam that this government has had or has at least undertaken a strategy to grind its plaintiffs. I think I said last day that the statement made was "bully the plaintiff." Well, I think it was "grind" the plaintiff. Nonetheless, the intention and the strategy of the provincial government is to delay the completion and the resolution of a litigation.

We all understand, Mr. Speaker, that litigation is a difficult and

time-consuming process. Nonetheless, there is in my view a significant distinction between a lengthy process and a strategy to delay that process as long as possible. My concern as I read the Bill, keeping that kind of scenario in mind, is that a mediation session could in fact be used by the provincial government as a further delay tactic, and that would certainly not meet the needs of what I believe would be the intention of the hon. member who brought forward Bill 216 in that we are looking for ways to speed up the process. We're looking for ways to shorten the time frame in which a resolution over a dispute can be resolved, where other parties who may not be acting in good faith could see that and use that as another delay tactic.

I note in terms of the sections of the Bill that the mediation process can continue while the litigation process continues. It is only after the mediation concludes that there is a certificate of completion filed by the mediator with the court.

Until we have some evidence that there's good faith on the part of the government, I'm reluctant to give my approval to Bill 216.

THE ACTING SPEAKER: The hon. Minister of Justice.

MR. EVANS: Thank you very much, Mr. Speaker. I'm very pleased to have an opportunity to speak today to Bill 216. I want to begin by commending the hon. Member for Grande Prairie-Wapiti for bringing this particular piece of legislation forward. Since I've been the Minister of the Department of Justice, I have worked with our staff to try to encourage the use of a number of types of alternative dispute resolution mechanisms throughout the public service and to focus the efforts in that regard in our department. The view that alternative dispute resolution is the way to go is incorporated into our business plan, and I'm pleased that the hon. member brought this matter before the Legislature so that we can have a constructive and thorough review, an update, and make some suggestions on how to ensure that the process is incorporated across government generally.

I would like to give a little bit of background on some of the things that are happening in this province in this regard, Mr. Speaker, both from the point of view of the public sector and the private sector and the public sector at the municipal level as well. Certainly, collaborative and innovative forms of dispute resolution are being used creatively now in this province and in other jurisdictions, and I think it's constructive for government to be involved in that process and for society generally to be involved in the process as well.

Alberta Justice and our client departments are promoting this dispute resolution process through provisions in contracts. We're trying to make that the general rule so that whenever we enter into a contract on behalf of the people of the province of Alberta, we put an alternative dispute resolution clause into the contract – that's principled or interest-based negotiation and mediation – and the use of referees and arbitration, all ways of giving effect to this kind of a mind-set. Our intention is to promote earlier and more effective resolution of issues that arise between parties.

Our Court of Queen's Bench in this province has been recognized internationally, Mr. Speaker, for its use of the judicial minitrial. That involves a process where judges of the court are assigned to hear a summary of the evidence, some argument on the law, and to give a nonbinding opinion on a likely judgment in an effort to help the parties negotiate a settlement.

The private sector is also involved in this process, Mr. Speaker. Businesses are promoting and taking advantage of processes such as mediation to resolve their disputes earlier and at a lower cost and to create a climate that promotes business opportunities. The Canadian Foundation for Dispute Resolution is one example of how that's being done, and the Better Business Bureau in Calgary, for example, is also operating a mediation program for claims arising out of Provincial Court, Civil Division.

Community-based organizations are also working on this through volunteer support, Mr. Speaker, that hopefully is finding its way to resolving some neighbourhood and community issues through mediation, encouraging the use of victim/offender reconciliation, and providing alternative measures for addressing the needs of society and the needs of our young offenders.

Here in Edmonton we have Edmonton Community Mediation, which is sponsored by the city of Edmonton community and family services. The Edmonton Community Mediation Society has been in operation here for the last 10 years. We also have programs, community based, operating in Calgary and Sherwood Park in the county of Strathcona, and they're being considered in a number of other communities as well.

Our victim/offender programs are operating in Edmonton with the Edmonton victim/offender project, where we have specified minor criminal charges, after having been laid, if the victims and the adult offenders wish to use it. So in other words, Mr. Speaker, it remains a voluntary process. The parties negotiate how they will resolve the issue between them, and if an agreement is reached and carried out, the charges are withdrawn.

In Red Deer the John Howard Society is providing mediation in cases involving young offenders and victims where minor charges have been laid.

Now looking specifically at Bill 216, it does provide alternatives that again are less costly for the participants, that are far less formal, that are less adversarial, and that are more understandable. There's no question that if disputes are resolved earlier and with less involvement and time and energy than the traditional system in the courts, then we have less cost to participants in terms of money and in terms of the time that's spent in preparation

3:10

Mediation certainly offers significant advantages, allowing the parties to reach agreement on issues that affect them. It's useful as well, Mr. Speaker, in many cases where people have concerns about matters that the courts either can't or find it very difficult to address. Examples might include discussion and recognition for good work under a construction contract or under previous contracts where problems have arisen in one area or another. That kind of an information exchange on an informal basis is a much better way to deal with problems and is not really available to us in the more formal and structured court process.

Now, notwithstanding the positive aspects of the Bill, there are some amendments that I think will be required, or are desirable at least, and as well some regulations that are needed to meet some of the stated objectives of the Bill. For example, to make sure that the mediation session as defined allows the participants to choose a process including mediation, there should be other terminologies used so it's not just a matter of strict mediation that would be required.

I think it's important as well – and the Member for Sherwood Park alluded to this – that there should be an allowance for an exemption where the parties . . . Say that departments of government, for example, have arranged for a dispute resolution provision in the contract, and those provisions, notwithstanding that they're in the contract, have not reached success. There's no point in beating a dead horse, and if the provisions set up in the

contract don't reach a satisfactory conclusion, you have to look at other methodology.

I think it's important as well that we make sure it's clear that this Bill would only apply to contracts that are entered into after the Bill comes into force and effect. I think it's important as well, Mr. Speaker, that we recognize that there should always be an opportunity to make an application to a court in exceptional circumstances to protect the public interest where that's advisable. So amendments should be looked at in that context as well.

I think it is the general consensus that mediation is most effective when it is voluntary. Mandatory mediation seems not to be nearly as beneficial. If it's comprehensive throughout all processes, then you have many other issues that arise, and the success level does not seem to be anywhere close to the same as when it is voluntary.

I attended, Mr. Speaker, a conference in Edmonton back in May called Interaction '96. That was a real awakening to me in terms of the issue of voluntary mediation, but probably more importantly, it was an awakening in terms of the people who are involved in mediation today. Being a lawyer by profession, I've always assumed, except in the last couple years, that lawyers were the most well trained and the most obvious selection for mediation. Some nonlawyers might challenge that as a conclusion that doesn't necessarily follow, but it has been the norm. Certainly at Interaction '96 I discovered that many of the people who are at the highest point in terms of how their peers view them are not from the legal profession. They are from various business backgrounds, various social agency backgrounds for that matter. The one common thread is that they're highly committed. They're highly committed to working out issues between parties, and they don't necessarily have that legal background. If they've been involved in business or community groups, universities, churches, or schools, they seem to be able to bring that experience into mediation and do extremely well.

Based on the experience in Saskatchewan, Mr. Speaker, that was alluded to at Interaction '96, and in Toronto, requiring mediation in certain cases, as long as the parties are generally in acceptance of that, seems to have very impressive results. Clients I think generally appreciate that ability to participate. They find the process a heck of a lot more understandable. Again, not to be repetitive, results come about in a much more timely manner and at far less expense. Once lawyers, for example, have been involved in the process, they seem to understand that it is not a threat to them professionally and that it is a process that should be supported. It makes their clients a lot happier with the process and the solution.

Again, Bill 216 is very consistent with our policy objectives in this department and consistent, I think, with what I'm hearing out there in the marketplace.

In terms of our business plan in Justice, we are trying to promote the use of dispute resolution processes both in the public interest and in the interest of Alberta Justice. We're trying to increase the public's access to the justice system in a way that's meaningful and understandable by them. How are we doing that in the civil division, for example? We're assisting our client departments to develop standard forms so that dispute resolution clauses will be in construction contracts and all other contracts. We're providing training and information to our lawyers and to our client departments concerning mediation and, again, all the other types of dispute resolution mechanisms available. We're trying to assist our client departments to select and to design dispute resolution systems and processes that are suitable to the parties, that are suitable to the types of contracts that are being entered into; in other words, that are flexible. We're also trying to deal with the same kind of issue in terms of consultation processes involving the public.

In terms of court services we're looking at a many-staged plan, and the first stage is planning what kind of a process to use to integrate these kinds of dispute resolution processes. The one advantage we're seeing is that we can gain from the experience of other provinces such as Saskatchewan and elsewhere. We don't have all the answers, so we will continue to debate the issues with our jurisdictions on either side of us.

I would point out as well something proactive that the Premier initiated last year, which was a task force on construction contracts, seeing how we can ensure that all of our construction contracts in the province do deal in a proactive way with dispute resolution mechanisms. As I understand it, we should be having a report on that task force probably sometime this fall.

I'd like to spend a minute or two talking about some of the options that are available today through our courts just to ensure that no one gets the impression that I think nothing is being done at that level, that more formal level. As I've talked about earlier, the minitrial process, the Court of Queen's Bench here in the province of Alberta is recognized internationally. In terms of that process, we have judicial settlement conferences, where we have a judge with mediation training helping the parties to discuss a settlement and providing that judge an opportunity to recommend a reasonable way to settle cases. We have case management for long trials, trying to make sure that the amount of court time, the amount of time that's necessary in terms of court workers, is well identified early on in the process. If the parties to a matter are aware of that, it increases the likelihood that they will seriously sit and consider whether or not to settle a matter before it goes to court.

Then, Mr. Speaker, mediation is available in cases of small claims court in Edmonton and Calgary. In Edmonton, the Edmonton Community Mediation process provides the service at no charge, and the Better Business Bureau does the same thing in Calgary.

3:20

I would also like to point out that at the last Justice ministers' meeting in Ottawa, Ontario, in May, we agreed that the settling of disputes through means other than the courts again is often a much more positive way of resolving conflict. We agreed as ministers to promote the development and the use of a wider array of dispute resolution mechanisms in all of our jurisdictions.

What can we do with the Bill that we have before us today to give effect to this? Well, number one, we're talking about the principle of the Bill. Unequivocally I would say that we should be supporting the principle of the Bill. I think we do need to have more input from the various stakeholders that I've identified, and perhaps the hon. member will identify more as he moves through his Bill. I think we want to identify them and I think we want to have their input to make sure that mediation as is described in section 3 is not compressing the number of options that are available to us for alternative dispute resolution but rather that we're expanding that definition to be as creative as we possibly can. If we don't do that, then we're missing an opportunity.

We need a co-ordinating body. I don't think we need anything formal, Mr. Speaker, but I have certainly said in the past – and it is in the business plan for the Department of Justice – that I think the Department of Justice, as the department that provides legal services to all of the departments of government, should be

the co-ordinating department on this initiative. I think I have the support of the government caucus generally for that.

Again I want to thank the hon. Member for Grande Prairie-Wapiti for bringing this matter forward to give it some additional focus so that I can get a sense from colleagues here as to whether that is the general consensus of the members of our government.

With that, I again want to commend the hon. member and I look forward to hearing some additional comments from hon. members.

THE ACTING SPEAKER: Seeing no more people standing, would the hon. member . . .

Calgary-Shaw.

DR. TAYLOR: He's going to announce that he's going to have the Committee on Law and Regulations meet.

MR. HAVELOCK: I often wonder if the term "dork" is parliamentary, Mr. Speaker. [interjections] Oh, you can't say that in the Legislature? Thank you.

THE ACTING SPEAKER: Hon. member, let's move on with the debate.

MR. HAVELOCK: Thank you, Mr. Speaker. It is with pleasure that I rise today to join in the debate on Bill 216, albeit a little late. Nevertheless, I'm encouraged to see this Bill being debated in the Assembly, as it deals certainly with a timely issue and attempts to address some potentially problematic future situations. Such situations include those which presently plague numerous jurisdictions, in particular the United States, British Columbia, and Ontario, with respect to severely congested court systems, ever increasing legal costs, and restricted accessibility to the justice system by average people. Problems such as this, underlying the public trust in our court system, certainly need to be addressed and rectified. It is in that regard that I feel Bill 216 has merit and is the area which I will direct my remarks to this afternoon.

Essentially, Mr. Speaker, Bill 216 incorporates alternate dispute resolution processes, or ADR as it is commonly referred to, into most government contracts. Other jurisdictions have implemented similar systems, and a review of the same, albeit somewhat cursory, indicates that there are some real advantages to ADR, primarily in the areas of savings in various contexts. Financial savings will likely accrue to the parties involved in ADR due to the utilization of a dispute mediation process as opposed to expending limited court time and incurring significant legal expenses. Now, I'm not suggesting that ADR will certainly always reduce costs, but it is often less expensive than pursuing the matter through the traditional litigation process.

The issue of privacy also arises when comparing ADR to traditional court proceedings. Quite appropriately, the court system is a form of record; transcripts are maintained and decisions are published. Often such decisions are based in part on information reluctantly but necessarily placed on the record by parties attempting to further their cases. Unfortunately, this may have the effect of requiring parties to disclose certain information which they may not wish to form part of the public record. Now, while I recognize there are some court procedures to protect from the disclosure of trade secrets or proprietary information, it is a cumbersome system. ADR simplifies the process because the information given during that process is not part of the public record. Therefore, parties to that process are able to protect information which they feel is sensitive in nature.

Mr. Speaker, substantial savings in time typically accrue through the use of ADR. Crowded court calendars and delaying motions by various parties often preclude the timely resolution of disputes. Evidence reviewed by the Ontario ADR task force indicated that ADR programs which directed parties approaching the courts to the dispute resolution mechanism worked well. In Houston, Texas, for example, 62 percent of would-be litigants who agreed to attempt mediation were able to resolve their disputes without any further proceedings. This results in a substantial reduction in expenditures, and in many cases the parties were able to have their hearings scheduled within a week of their coming to an ADR centre.

Another very real advantage of ADR is the potential for the person mediating the case to possess the specialized knowledge necessary to address the issues at hand. Quite simply, members of the legal profession, including judges, cannot be expected to familiarize themselves with and understand all the nuances of a complicated and technical case. There are members of the legal profession, nevertheless, who profess that they can do so, but it's quite difficult at times. Persons with specialized knowledge are readily available to mediate a case in ADR situations, which is preferable to attempting to inform another party about complex deals in financial areas, insurance, construction, and so on.

Mr. Speaker, in some ADR methods the parties to a dispute are the ones who maintain control over the entire process. Although this may preclude some parties from turning to ADR, as the courts are a convenient scapegoat for unfavourable decisions, it is still preferable to place the responsibility for the outcome of a dispute in the hands of the contesting parties. The result is achieved by and alternately not imposed upon them. Follow-up studies have indicated that individuals who have participated in the ADR process typically feel more satisfied with the result, as they better understand the process and feel a greater responsibility to fulfill their negotiated agreements.

Finally, Mr. Speaker, ADR tends to compel parties to confront the issue at hand as opposed to adopting extreme positions for extended periods of time.

THE ACTING SPEAKER: I hesitate to interrupt the hon. Member for Calgary-Shaw, but the time limit for consideration of this item of business has concluded.

head: Motions Other than Government Motions

Young Offenders

513. Mr. Sapers moved on behalf of Mr. Dickson:

Be it resolved that the Legislative Assembly urge the government to implement the suggestions contained in reports tabled in the House by the government and by the Official Opposition concerning improvements to the handling of young offenders in Alberta.

[Debate adjourned May 21: Mr. Coutts speaking]

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

MR. DICKSON: Thanks very much, Mr. Speaker. I'm delighted to be able to get a few comments in on a motion that I had the privilege of bringing forward and putting on the Order Paper. It was interesting determining how to make a contribution virtually

at the end of a debate on this motion. I thought it was useful to look at what had been said by those that had spoken before. I was particularly interested in the comments of the Member for Calgary-Fish Creek. The Member for Calgary-Fish Creek had said, in effect, that she wasn't able to support the motion. That struck me as being curious when I first heard her say it, so I went back to read her explanation and her reasons, because I thought maybe there was something there that I'd missed the first time around.

3:30

Largely what the motion says is to attach some urgency to the very worthwhile recommendations that had come forward from two task forces, one made up of members of the government side, another made up by opposition members, which looked at a number of ways that we could improve the way we deal with young offenders in the province of Alberta. I was disappointed when the Member for Calgary-Fish Creek said, "Don't rush it; make sure it's right." That's what she was hearing from Albertans – she said this on May 21 at page 1975 – but that's not the message that I'm getting from Albertans. Albertans think there's a lot that can be done in terms of dealing with young offenders and youth justice, and there's a degree of frustration that more hasn't been achieved.

It strikes me that even in the government report – this is the report that came from the committee chaired by the Member for Calgary-Fish Creek – there was a discussion about change and reform and overhaul in terms of the way we're dealing with young offenders. There was a provision in the beginning of the government report – and I'm just trying to put my finger on it now – that indicated that there was some urgency, that it was important that government move on the recommendations that came forward from that task force. I'll just have to paraphrase it. I don't have the exact quote at my fingertips, Mr. Speaker, but it was clear that the government members who were on that task force thought that this should not be something that was deferred or delayed.

In fact, I have the quote now. It was on page 4 of the report from the government task force chaired by the Member for Calgary-Fish Creek. Mr. Speaker, what she said was this.

> Improved focus on crime prevention and community involvement should receive priority attention . . .

Priority attention.

> . . . by provincial and federal governments and by the community at large.

Now, what that tells us is that it's not enough to simply let the matter languish on the credenza behind the Minister of Justice in his office. This is something we want to move to the front of his desk and want to see some immediate action taken on.

The Member for Calgary-Fish Creek went through, and she referred to a report that had been tabled on May 1, 1996, by the Minister of Justice. I've got the copy here, and it's grandly titled MLA Task Force Report Relating to the Administration of the Young Offenders Act and response to recommendations. But when one goes through the report tabled by the Minister of Justice, ostensibly showing what action has been taken on those recommendations, we find that not a lot of action has taken place at all. In fact, many of the things set forward in sessional paper 966/96 are things that were happening long before either caucus created a task force to look at young offenders.

There's talk about the creation of the Shunda Creek Youth Corrections Camp. Well, the camp was created in 1992, Mr. Speaker. There is one additional camp that's been announced by the Minister of Justice, but my concern with that is that we may well be able to use a half dozen of these camps around the province. It seems to me that the new camp that's been added is only for aboriginal young offenders.

Thanks very much.

THE ACTING SPEAKER: I hesitate to interrupt the hon. Member for Calgary-Buffalo, but under Standing Order 8(4) I must put all questions to conclude debate on the motion under consideration.

On the motion as proposed by the hon. Member for Edmonton-Glenora on behalf of the hon. Member for Calgary-Buffalo, 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 motion is defeated.

[Several members rose calling for a division. The division bell was rung at 3:35 p.m.]

[The Deputy Speaker in the Chair]

[Ten minutes having elapsed, the Assembly divided]

For the motion:		
Balsillie	Forsyth	Sapers
Bracko	Germain	Sekulic
Bruseker	Hanson	Soetaert
Collingwood	Massey	Van Binsbergen
Dalla-Longa	Percy	Wickman
Dickson		
Against the motion:		
Ady	Havelock	Oberg
Amery	Herard	Paszkowski
Beniuk	Hierath	Pham
Calahasen	Hlady	Renner
Cardinal	Jacques	Rostad
Clegg	Kowalski	Severtson
Dinning	Langevin	Shariff
Dunford	Lund	Smith
Evans	Magnus	Stelmach
Fischer	Mar	Taylor
Friedel	McClellan	Thurber
Fritz	McFarland	West
Gordon	Mirosh	Woloshyn
Haley		
Totals:	For – 16	Against – 40

[Motion lost]

Legal Services Ombudsman

514. Mr. Havelock moved:

> Be it resolved that the Legislative Assembly urge the government to examine the feasibility of establishing a legal services ombudsman to investigate how complaints about lawyers have been handled.

THE DEPUTY SPEAKER: The hon. Member for Calgary-Shaw. [some applause]

MR. HAVELOCK: Well, thank you, Mr. Speaker, and thank you to my colleagues for that warm welcome.

MR. MAR: Where are they going, Jon?

MR. HAVELOCK: Thank you for that, Mr. Minister.

It is certainly with pleasure that I rise today to speak in support of Motion 514, the legal services ombudsman. Nevertheless, Mr. Speaker, I am of two minds when it comes to this issue.

AN HON. MEMBER: Two minds?

MR. HAVELOCK: Two minds, yes. Two minds for the price of one, which means that I have you guys doubled. [interjections] Well, it's good to see there's a lot of audience participation, Mr. Speaker.

I recognize that our government has implemented various strategies to reduce the regulatory burden in our province. Such deregulation, which has been championed, I might say, by the Member for Peace River, is part of the government's commitment to enhance opportunities for businesses to grow and invest in Alberta. It means simplifying legislation, eliminating legislation that is out of date, and harmonizing legislation, regulations, and policies of different government departments at the municipal, provincial, and federal levels. This has been a substantial undertaking and continues to produce benefits for Alberta businesses and residents.

In addition, Mr. Speaker, this government continues to recognize – and I believe quite appropriately – that professions such as lawyers and doctors, for example, should regulate themselves, including the disciplining of their members. So why, you might inquire, have I brought this motion forward for consideration?

3:50

SOME HON. MEMBERS: Why? Why?

MR. HAVELOCK: I was hoping that you'd ask. I'll give you an answer. Quite simply, Mr. Speaker, when there are instances of a system not working or individuals falling through the cracks, perhaps it is necessary to amend the process to ensure the maintenance of the high quality of services that Albertans expect.

Mr. Speaker, self-governance is a privilege which must be exercised diligently and with due regard for the public interest. Unfortunately, this is not always the case. Now, while the Law Society of Alberta stresses the high level of professionalism for its members and provides continuing education to ensure the same, as is the case with other professions, there are members who do not satisfy that standard.

For those members who are not familiar with its operation, the Law Society of Alberta, which is subject to the Legal Profession Act, is a self-governing association of all practising lawyers in the province. The society establishes standards and principles of ethical conduct and oversees the province's lawyers to ensure that these principles are adhered to.

Mr. Speaker, the majority of the legal profession in Alberta are well educated, intelligent, honest, dedicated, and conscientious. However, we must be diligent in our efforts to protect the public from those lawyers who are incompetent . . .

MRS. McCLELLAN: How many?

MR. HAVELOCK: I'm not sure how many, hon. minister, but if I could continue.

. . . or have occasionally had other commercial or professional interests which run counter to the services they are providing to their clients.

DR. TAYLOR: Name names.

MR. HAVELOCK: Really, Mr. Speaker, the participation here is overwhelming. I'm quite gratified that everyone's listening so intently to these sage remarks. [interjection] Okay; other than the Member for Little Bow.

Mr. Speaker, if we do not so adequately protect, the result is that a number of Albertans will lose faith in a legal system which they see as having failed them. Currently where the conduct of a lawyer is questioned, that individual is judged by other lawyers, with the exception being the lay benchers appointed to the Conduct Committee. While this is satisfactory in the majority of cases, the most common concern raised by my constituents and individuals negatively impacted by the legal system is the lack of input from Albertans outside that system. Such individuals bring a different perspective to the process and are capable of making a significant contribution. Perhaps by adding to the complement of lay representation, for example, in disciplinary hearings, we can more than adequately strengthen the work of the Law Society. Nevertheless and assuming that the Law Society was to pursue the foregoing, it still does not adequately address the request of some Albertans for a system completely separate and independent of the legal profession.

It should also be noted, Mr. Speaker, that the Law Society currently reviews approximately 1,000 cases of complaints against lawyers per year. That's an average of almost three per day. Many of these cases are frivolous complaints or misunderstandings, although approximately 5 percent are typically determined to be serious enough to proceed to a disciplinary hearing. Now, this process may take up to a year, mainly due to scheduling problems, or as little as three months, depending on the issue. It should be noted that the society employs 50 people to address complaints against lawyers, thus underscoring the significant nature of this matter.

Consequently, Mr. Speaker, through this motion I am suggesting that the government examine the advantages and disadvantages of establishing a legal services ombudsman. If the Assembly agrees to Motion 514, I suggest that examining the experiences of other jurisdictions would be particularly useful.

Great Britain had a lay observer program, which they discontinued in 1990 in conjunction with the establishment of a legal services ombudsman. Their ombudsman investigates the manner in which complaints have been handled by the respective professional bodies in regard to solicitors and barristers and licensed conveyancers. Of the 20,000 complaints processed by the solicitors' complaint bureau on an annual basis in Great Britain – let's keep in mind that they do have a larger population; nevertheless that is a significant number – approximately 2,000 are reviewed by the ombudsman. Such complaints are primarily related to service, examples being misrepresented costs, delays in action, lost documents, and failure to communicate with clients. These complaints are presently handled by a staff of 17 and the ombudsman. Interestingly, the ombudsman in Great Britain cannot be a lawyer. Using the Great Britain numbers, one could

expect that if they're processing approximately 10 percent going through the ombudsman, a legal services ombudsman in Alberta would review approximately 100 cases per year, based on 1,000 complaints being addressed.

In British Columbia under the Legal Profession Act the Law Society is responsible for regulating the conduct of lawyers and establishing the standards for education, professional responsibility, and competence of its members. In October 1993 the provincial Ombudsman was granted the authority to investigate complaints against self-regulating professional bodies in British Columbia, and that included the Law Society. Unfortunately, Mr. Speaker, despite repeated requests from our researchers, I have not been able to access much information from the B.C. Ombudsman office. They have refused our requests with respect to how many complaints they're processing and the results of those. It would appear that freedom of information has yet to reach the shores of that province.

Mr. Speaker, this is not an unfamiliar issue to this Assembly. It was raised in 1987 by the then Member for Calgary-Fish Creek. It also appeared in the form of a private member's Bill, being Bill 210, in 1992 sponsored by the Member for Calgary-McCall. Bill 210 called for the establishment of a commission to examine legal reform in our justice system. Its goal was to make the justice system accessible, understandable, relevant, and efficient for all Albertans. At the time, the hon. member did not feel that Albertans had proper access to justice in all situations. I am not convinced that the legal system has advanced sufficiently in four years to alleviate such concerns.

Mr. Speaker, it should be noted that in examining the feasibility of establishing a legal services ombudsman, it is not the process of appeal which I wish to amend. Presently a complainant first approaches the Law Society to have the matter investigated by the deputy secretary of the Law Society. If the deputy secretary chooses to dismiss the claim, the complainant may pursue the matter with the Appeal Committee. If that avenue determines there is some legitimacy to the complaint, a review of the member's conduct is instituted by the Conduct Committee. That committee is comprised of members of the profession who are elected as benchers and lay members appointed by the government to ensure that there is an outside and independent review of the claims. Now, assuming the Conduct Committee finds that further review is necessary, the matter is finally referred to a Hearing Committee, which again includes benchers and lay members, for final adjudication.

Mr. Speaker, the purpose of this motion is simply to examine the desirability of creating an appeal mechanism for those situations where the Law Society process proves to be unsatisfactory. It would provide Albertans with an avenue to appeal decisions made by the Law Society and, in particular, the Hearing Committee insofar as it relates to the decision and the process by which the decision was reached. Motion 514 simply adds a step to the legal process, that being the legal services ombudsman. It may be a service which the present Ombudsman could provide without, hopefully, incurring significant additional expenditures or perhaps be subject to reasonably restrictive parameters to ensure that all Law Society decisions are not reviewed. Quite simply, the legal services ombudsman would be an appeal mechanism of last resort, once all other avenues have been exhausted.

While I recognize that passage of this motion would raise the question of how it would impact other professions or is contrary to this government's deregulation efforts, I am simply requesting the examination of the concept's feasibility at this time. Consequently, Mr. Speaker, I hope that all members will seriously consider this motion and that when it comes time to vote on it, they will see fit to support it.

Thank you.

4:00

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

MR. GERMAIN: Thank you very much, Mr. Speaker. It is always welcomed, I believe, by Members of this Legislative Assembly and the legal community when an opportunity to point out some aspects of the self-governing profession of law in the province of Alberta is allowed in this particular Legislative Assembly. The hon. member, himself a member of the legal profession and a member recently awarded a Queen's Counsel by the government of the day, has brought this motion forward to ask us in this Assembly to impose a standard on the legal profession that we do not likewise wish to, or to debate proposing, on the members of other professions in this province that are self-governing.

Now, the hon. member's resolution is vague and ambiguous, and I would urge all members to vote against it for no reason other than it does not express the clarity of thought that one might have expected. It seems to ask for a feasibility study to determine if an ombudsman for legal complaints is necessary, but it goes on to conclude with this trailer: "to investigate how complaints about lawyers have been handled." That sounds to me like the hon. member is asking for some form of inquiry on the past history of complaint handling by the legal profession of the province of Alberta. This government has indicated in other matters of government endeavour that it will not embark on historic reviews and in fact has rejected soundly other calls for historic reviews, and I would urge them to reject this particular request for an historic review.

Now, let's assume for a moment that the hon. sponsor of this motion, himself a member of the legal profession and himself a Queen's Counsel appointed by this government, meant that we would investigate the feasibility of a wide-ranging grievance step . . .

DR. TAYLOR: Are you a Queen's Counsel?

MR. GERMAIN: Yes, hon. member, I am, as a matter of fact.

DR. TAYLOR: Who appointed you?

MR. GERMAIN: Some Members of the Legislative Assembly are hollering out, asking who appointed me a Queen's Counsel. Hon. Mr. Speaker, I'll deal with that at the right time. If they write me a written request, I'll be happy to file those written credentials.

Let me move on to discuss the legal profession and of course the Law Society of Alberta. This Legislature in the early '90s passed a new Bill, at the request of the Law Society of Alberta, called the Legal Profession Act, which very much put the legal profession of this province in the forefront in terms of self-administration and public scrutiny of affairs relating to the legal profession. The legal profession of the province of Alberta is one of the most transparent and open professions of all of the professions and has an enviable record of having attempted to serve the public for many years in terms of public service and public protection of the legal profession.

We were the first legal profession in Canada to have an

assurance fund by which people who felt they had been defrauded by discreditable lawyers could bring forward their claims. We were the first to have that fund totally funded by the profession and not funded by government, Mr. Speaker. The legal profession was the first to have mandatory errors and omissions insurance of all of the legal professions across the country, again funded by the profession and not funded by the government or the Alberta taxpayers.

We were the first to have in-house auditors to ensure that accounting books and all business records of the legal profession and legal members were kept in good order and that education as well as investigation could be provided in that area. We were one of the first to have practice advisers that would assist lawyers with any area of the law that they felt they were having difficulty in, in an effort to ensure a better public service.

We were the first legal profession, Mr. Speaker, in all of Canada to have open, public disciplinary hearings, and we were the first to embrace lay benchers appointed by the various attorneys general of the province of Alberta. Now, although the lay benchers are few in number relative to the entire elected benchers, they in fact occupy a much larger percentage when they are sitting as part of three-person hearing boards. Up to two out of three could be lay benchers in a hearing, although the norm is to have one lay bencher and two legally trained benchers dealing with each hearing matter. So the lay benchers have provided great insight into the operation of the legal profession, and it is interesting to note that not one lay bencher ever appointed by the Attorney General of the province of Alberta has urged or asked for a public Ombudsman to deal with another layer of review of the complaints.

The hon. Member for Calgary-Shaw indicated that there were a thousand complaints a year, and he tried to use that to underscore a problem. In fact, much of that is bookkeeping. The Law Society has a practice of developing one file for each complaint. So, Mr. Speaker, if in fact an audit takes place and a lawyer is found to have 10 irregularities in his trust account – for example, he may not have signed off his monthly reconciliations before the 10th day of the next following month or might not have properly posted all of the interest earned on term deposits, standards that the government and the Provincial Treasurer themselves do not have to adhere to – well, that person might get two complaints. It's one transaction, but it might generate two complaints.

You know, many of the complaints against lawyers, Mr. Speaker, lawyers wear as badges of honour. A large segment of the complaints that come in are complaints about the lawyer on the other side: "The lawyer on the other side of the case was too good, was too aggressive. As a result, I lost the case because the lawyer that my opponent hired worked hard." I mean, those are the types of complaints that come to lawyers that do not come to any other profession. Doctors are not in an adversarial position when they are working on patient care. Dentists are not in an adversarial position when they work on dental care. Health nurses are not in that similar position. Chartered accountants, of which we have some in this Legislative Assembly, and economists and other professionals often carry out their profession on a one-to-one basis with their client and not in an adversarial role. The lawyer is by definition part of an adversarial process, and it is natural to attract heat and to attract complaints on those types of situations.

I want to say to you, Mr. Speaker, that there are many members of the legal profession that are women. Close to 50 percent of all the practising lawyers are women, yet husbands will write in complaining about those women and their advocacy for other women in matrimonial cases. They will say, "My wife's lawyer was too aggressive and too harsh on me when I was a witness for cross-examination."

Now, should we have another layer of review of the legal profession? The Legislature in this province ultimately controls the legal profession through the Legal Profession Act. It has been a self-regulating, self-disciplining profession since 1905, since Alberta became a province. Were we to appoint now a government type of ombudsman, would that in fact lead to criticism that lawyers who acted against the government would be afraid to do so for fear of the government-appointed ombudsman review coming to bear down on them? Would that in fact add a dimension of intrusion into the legal profession that we do not want? We recognize as a government that the independence of the legal profession is important to ensure that everybody – every citizen, indeed every corporation and every government – gets their day in court and has their fair day in court.

Now, I mentioned, when I started my comments, about the Law Society of Alberta being the first society to embrace open discipline hearings. If you want to go and sit in on one of these discipline hearings and hear how somebody feels that a lawyer charged them $80 for a service when it should have only been $8 for the service, you're welcome and able to do that, Mr. Speaker. To my knowledge no other profession allows that to happen.

4:10

Does the Law Society rest on its laurels in that regard? No, they do not. In recent years they have strived to get better and better at dealing with complaints from members of the public. Now they have imposed yet a new layer of arbitration review. Recognizing that many of the complaints are a matter of lack of communication or charges and fees, the Law Society will provide mediators and arbitrators to attempt to resolve differences between lawyers and their own clients. All of this is done without any fee to the government and indeed and surprisingly, Mr. Speaker, with no fee to the complainant unless the complainant wants to file higher and bring along his own lawyer. If a complainant wants to come to a Law Society hearing without a lawyer, he is afforded every courtesy, every co-operation, and the Law Society's lawyer will even assist that complainant in going through the matter.

Now, if a complainant has a claim that is proceeding through the discipline process, he does not even need a lawyer, because in fact the Law Society of Alberta will hire and pay for a lawyer to prosecute that claim just like a victim of a crime is represented by a lawyer hired by the Attorney General of the province of Alberta and the Minister of Justice to deal with their claims.

So in disputes between the public and the legal profession, the legal profession already takes steps to be open and transparent. It takes steps to provide legal counsel and legal advice to complainants. It attempts to arbitrate and resolve minor issues before they are allowed to fester into major issues, and it does all of this, Mr. Speaker, without a penny of government funding and in the open public eye.

Each year, Mr. Speaker, the legal profession files and provides every Member of this Legislative Assembly with its annual report and also on a monthly basis with something called the *Bencher's Advisory*, which outlines what the issues of the day are in the legal profession. All of the statistics, all of the issues, all of the steps taken to protect the public are revealed there for all to see. If we now vote for this motion when we have not likewise encompassed and included other professions in it, are we sending a message to our legal profession of this province, which has

served the province so well since 1905, that we no longer trust their judgment to deal with individuals that are stepping out of line in their profession? Are we sending to them a message that their open hearings are not open enough, that their arbitrators are not arbitrating enough, that their statistics published and revealed to us are not enough? Or are we simply taking and doing what society loves to do with some of their cartoons and their caricatures and their jokes? Are we simply bashing lawyers while at the same time recognizing their importance?

DR. TAYLOR: Sure. Good idea.

MR. GERMAIN: You know, it's interesting that the hon. Member for Cypress-Medicine Hat, himself claiming to be a learned man with a PhD, from his seat wants to bash individuals in another profession. How shameful that conduct is. How absolutely shameful.

DR. TAYLOR: Point of order, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Member for Cypress-Medicine Hat on a point of order. Do you have a citation for us?

Point of Order
Clarification

DR. TAYLOR: Twenty-three (h), (i), (j): casting aspersions, Mr. Speaker. I do not have to claim I have . . .

THE DEPUTY SPEAKER: Calling a shotgun clause of Standing Order 23(h), (i), (j) is really not an appropriate reaction. You have a specific point of order, hon. member, or you don't.

DR. TAYLOR: Yes. Standing Order 23(i), *Beauchesne* 484(3), and *Beauchesne* 69. So I will reply to that.

First of all, Mr. Speaker, I do not have to claim that I have a PhD. I actually have one. It was awarded to me by the University of Calgary. So I'd like him to withdraw that and acknowledge that. That was the first one. I'd just point that out to the hon. member.

THE DEPUTY SPEAKER: On the point of order, hon. Member for Fort McMurray.

MR. GERMAIN: If the hon. member was suggesting that I was implying that by his conduct sometimes he puts his PhD in doubt, I didn't intend that to be my comment. Frankly, his comment about having received one from a university is evidence and supports my proposition that he claims to have a PhD. He made the claim again right now.

THE DEPUTY SPEAKER: Hon. members, it would appear that using Standing Orders to facilitate comments in debate is useful only when it's appropriate. What we really have is a clarification, and it's been dealt with, so we'd invite the hon. Member for Fort McMurray to continue his debate.

Debate Continued

MR. GERMAIN: Yes. Continuing with my comments, Mr. Speaker, I urge all members then, in conclusion, to reject this motion, first of all, if they want to, on the technical grounds that I raised earlier, that it is a motion that appears to call for an historic review of the dealings of the legal profession and therefore is vague and ambiguous in its terms and should be rejected by this Legislative Assembly for that reason alone.

Assuming that what the hon. sponsor of the motion wants is some kind of a legal profession's ombudsman, I think even for an investigation of that issue, the costs and the fact that the Law Society of the province of Alberta is doing an excellent job, in my respectful estimation, of regulating the legal profession and doing it in a fair and open and transparent way, recognizing that the benchers who sit on the Law Society of Alberta are many of our senior lawyers and members of the legal profession, held in the highest personal regard by the public and by the profession – many of them in fact from the Law Society of Alberta, from the benchers of the society, have gone on to take prominent positions at the University of Alberta and in the courts and in the judiciary and indeed in political life of this province. I suggest that the system is not broke; let's not try to fix it. I ask all members to reject this motion.

Thank you.

THE DEPUTY SPEAKER: The hon. Member for Vegreville-Viking.

MR. STELMACH: Well, thank you, Mr. Speaker. I wish to join in debate on Motion 514, regarding the legal services ombudsman, and seek support for the motion. I do concur with our government's position on deregulation and also feel that the legal services ombudsman would play a vital role by increasing the accountability of the legal profession. This is especially in light of the number of constituents that have come forward over the last three, three and a half years since I've had the pleasure of serving as the MLA for Vegreville-Viking and helping resolve some matters arising from the legal profession.

Mr. Speaker, the Ombudsman's mandate is to investigate complaints against departments, boards, and agencies of provincial governments. The primary purpose of the Ombudsman lies in providing an avenue of investigation on behalf of a citizen who feels unjustly treated through the actions of departments, agencies, or officials of the government of Alberta. The office of the Ombudsman also assists citizens in directing complaints to the appropriate department or other established mechanisms outside the jurisdiction of the Ombudsman. The Ombudsman's office is established as a complaint mechanism of last resort. The Ombudsman cannot intervene until all formal and informal avenues of appeal have been completed.

Mr. Speaker, many professions have specific in-house methods of appeal designed to resolve complaints, such as the legal profession and medical profession. While these in-house methods are justifiable and serve to resolve complaints, it is based upon peer review and thus in some cases lacks a method of accountability. There is no form of recourse outside of the panel proceedings. Such is the case with the legal profession.

Mr. Speaker, the Law Society of Alberta is a self-governing association of practising lawyers. Under the Legal Profession Act the Law Society is responsible for regulating the conduct of lawyers in Alberta and for setting standards for their education, professional responsibility, and competence of its members. Like any other self-governing association, however, a problem arises if the complainant is dissatisfied with the proceedings. This is not to say that the appeal process itself is flawed, rather that there is no form of recourse past the initial proceedings. The creation of a legal services ombudsman could alleviate this problem by providing an avenue for recourse if the complainant is unsatisfied with the proceedings under the Law Society of Alberta.

4:20

The fact of the matter is, Mr. Speaker, that many complaints to the Law Society fall within areas that are not considered evidence of professional misconduct by the discipline committee. The competency committee deals with complaints about a lawyer's competence. Many complaints to the Law Society fall within categories that do not qualify as misconduct but concern service quality, including such things as delay in completing a task, failing to return phone calls within a reasonable time, rudeness, and overbilling. Since these problems are neither professional misconduct nor incompetence, the Law Society has taken no action on them. Instead, the complainant typically receives a letter stating only that the evidence does not suggest professional misconduct or incompetence. This lack of acknowledgement of these problems can be very frustrating for the complainant and may lead to public dissatisfaction with the legal system.

Mr. Speaker, as my colleague has stated, the United Kingdom and British Columbia have already established some form of legal services ombudsman. In October of 1993 the Ombudsman in British Columbia was given the authority to investigate complaints against such self-regulating professional governing bodies as the Law Society. In fact, the Law Society of British Columbia realized that it must be more sensitive to the public's concerns about service quality.

The Ombudsman and the Law Society of British Columbia are currently discussing several other issues: delay on the part of the complainants' review committee in completing its reviews of complaints, delays in completing conduct review reports for the discipline committee, the need for amendments to the rule that permits a member to withhold from the complainant her or his response to the complaint, and the need for plain language in communications with the public. In the British Columbia Ombudsman report for 1995 the Ombudsman stated that the Law Society has been responsive to the concerns of the Ombudsman's office.

Mr. Speaker, Albertans have stated that they want a system that is accountable and fair. That is not to say that the Law Society has not done a good job in regulating the conduct of lawyers nor that the system itself is flawed. In fact, the Law Society has done a very good job in monitoring the behaviour of lawyers. The establishment of a legal services ombudsman is more of a complementary measure to facilitate a more accountable system for Albertans. Once again, the legal services ombudsman will serve as a measure of last resort and will not by any means serve to supersede the role of the Law Society.

Mr. Speaker, the creation of a legal services ombudsman can promote a more open and accountable system. Albertans deserve at least the option of appeal if they are unsatisfied with the proceedings under the auspices of the Law Society. Once again, the legal services ombudsman will serve as the last avenue of appeal after all other resources have been exhausted.

As my colleague has said before, there are many models we can pursue to establish a legal services ombudsman, including expanding the role of the Ombudsman's office in Alberta to perform the task of legal services ombudsman. Such is the case in British Columbia. A legal services ombudsman in Alberta would be beneficial to the legal profession and Albertans. It would provide the Law Society with a more responsive system regarding the conduct of lawyers while increasingly meeting the public's concern with service quality and delivery. The creation of this office should help bridge the gap between the Law Society and the public by addressing concerns of the public regarding the legal society. A legal services ombudsman would play an integral role in this process.

Mr. Speaker, what we are asking for support for today is the opportunity to review all options that are available and research the possibility of a legal services ombudsman.

Thank you.

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

MR. DICKSON: Thanks very much, Mr. Speaker. I see that I only have three or four minutes, and there's a great deal to say. I'd just start off by making the observation that I also find the motion somewhat ambiguous. The way the thing is worded suggests that in fact it's an historical review that's contemplated, yet I think when the Member for Calgary-Shaw spoke, he didn't address that at all. He talked in terms of an actual complaint resolution process.

I think, as has been said before, the Law Society has done a great deal to address concerns, particularly since 1993. I think it's also fair to say – as one of the Justice critics for the opposition I hear a lot from a number of Albertans who feel they are aggrieved, Albertans who feel they didn't get the kind of treatment they expected from their particular solicitor. Now, in a population the size of Alberta there may be a very small number of complaints, but I am always concerned when I hear people who say that the system isn't working particularly well in their specific case.

Now, what I do want to acknowledge is that when I have brought those kinds of issues to the attention of the Law Society – and these may well be cases where the complaint investigation process has been exhausted – I found that the society for the most part has been very helpful in terms of trying to respond to those concerns. But you still end up in a situation where at the end of the day, if all of the Law Society complaint processes have been exhausted, where does somebody go at that point?

I've written the Minister of Justice on a number of occasions, raising concerns of just that kind of scenario, and the Minister of Justice's typical response is that the Law Society is a self-governing profession. He sees that it is not his role to take any further steps or take any further initiative or to intervene in any way at all. I sometimes wonder if there isn't something of a gap or a lacuna there where, although most complaints have been expeditiously and satisfactorily resolved, you may get some problems that have not been able to find resolution, some complainants who may have a legitimate beef that haven't been able to find satisfaction. Where can those individuals go? Where can those people go?

I'm not convinced. I haven't seen enough evidence from British Columbia that an ombudsman is going to fill a gap, fill a void that exists in the province of Alberta. I think what I'm suggesting is that I can see some limitations with the complaint investigation process we have in Alberta, but I'm not entirely convinced that doing what's been done in the United Kingdom, where there are a number of different factors at play, or doing what's even been recently introduced in the province of British Columbia is going to resolve the problem.

I wonder if it's not possible to involve increased lay representation on the benches of the Law Society of Alberta. I think that may be a reform that would be valuable. I think I'd continue to talk to the Law Society in terms of a further type of appeal or some additional means of ensuring that people get attention when they have a serious concern, Mr. Speaker.

THE DEPUTY SPEAKER: I hesitate to interrupt the hon. Member for Calgary-Buffalo, but the time limit for consideration of this item of business has concluded for today.

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

4:30

[Mr. Clegg in the Chair]

THE DEPUTY CHAIRMAN: We'll bring the committee to order.

Bill 49
Gas Utilities Amendment Act, 1996

THE DEPUTY CHAIRMAN: Before I call on you, hon. Member for Fort McMurray, we'll just give a minute for some people to stand or sit or something. Not stand; sit or outside. Please have a chair.

AN HON. MEMBER: Question.

THE DEPUTY CHAIRMAN: No, we're not ready for the question.

The hon. Member for Fort McMurray.

MR. GERMAIN: Thank you very much, Mr. Chairman. This Bill allows an opportunity for gas suppliers and their customers to attempt to create a localized, industry-approved, customer-approved package and asks the appropriate board to approve that particular rate structure on the basis that savings will be shared and allocated in some fashion between supplier and customer.

It seems to me that last night when we discussed this in second reading, there were some concerns about the allocation of the benefits that flow from these savings. Will they be allocated fairly between customer and supplier? I have received some indication that in the one transaction, which is presently pending this amendment, that is indeed what happened, Mr. Chairman; the division of benefit was split on a 50-50 basis.

We originally had contemplated, Mr. Chairman, that an appropriate handling of this Bill would be to bring forward an amendment that mandated that a split of the benefit, at least 50-50, between customer and organization take place, but on further reflection we think it would be appropriate to allow the industry and its customers to feel their own way in this area for a while. As a result, this particular legislation is a very short amendment to the Gas Utilities Act. I think the next few years of its operation will be interesting ones to observe.

[The clauses of Bill 49 agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed, if any? Carried.

Bill 41
Water Act

THE DEPUTY CHAIRMAN: The hon. Minister of Environmental Protection.

MR. LUND: Thank you, Mr. Chairman. It gives me a great deal of pleasure to enter the debate in committee. I have a number of questions that were asked during second reading that I would like to answer. I'm not going to attempt to answer nearly all of them, because some of them, quite frankly, were so far out that I can't determine where on earth they came from. But there were some that I want to make some comments on.

The hon. Member for West Yellowhead said that there was a lack of ability in the new legislation for addressing water quality issues. Well, of course, we all know that water quality is dealt with under the Environmental Protection and Enhancement Act, but it's not true that this Act doesn't allow for some addressing of water quality. As a matter of fact, this is the first time ever in the province of Alberta that the issue of the aquatic environment in a river and stream will be addressed and will be protected. So in fact that is dealing with the whole issue of water quality.

He also said that there was an absence of regulations in the draft regulation package where the Bill specifies that there is the need for regulations. Mr. Chairman, all through this process – of course, you were chair of the Water Resources Commission and went around taking input on this Act as well. The whole issue about public consultation – I don't know of many Acts that have seen more public consultation than the Water Act. There were at least two rounds by the Water Resources Commission. We had the introduction of Bill 51; that was a round. We've now had Bill 41 out for a period of time. We've sent out the regulations, and we're asking for public input and are currently gathering that input. I really encourage Albertans to send in their comments on the regulations, and in their comments they can of course identify areas where they feel we need to have more regulations or less regulations or whatever the situation will be. Before we finally adopt the regulations, there will be an opportunity for Albertans to view those.

The Member for Fort McMurray said that the new water legislation includes enforcement provisions that inappropriately restrict people's civil liberties. Well, all through the Act you will find that in fact there is a spirit of co-operation. We do have though, I must admit, the ability within the Act to take enforcement measures if we find it's necessary to use those tools, but these are no different than you'll find in the Wildlife Act or in the Environmental Protection and Enhancement Act.

Calgary-North West made the comment that the new water legislation does not provide specific assurances that sufficient public consultation will occur if there is a change in government policy. Well, once again I must emphasize all of the public consultation that has occurred in the past and the commitment to continue consultation. In fact, Mr. Chairman, it's written right in the Act that if there are major changes, we must include public consultation before those are passed.

The Member for Fort McMurray made the comment that the new water legislation allows the minister, under section 35, to reserve water for any purpose, which could include the purpose of selling water. Well, he's accurate in that under section 35, yes, the minister can reserve water for any purpose, but really I'm not sure whether he hasn't read the whole thing or if he just completely misunderstands section 35. If you go on and look at section 46, it clearly states that the sale of water – I'm sure he's referring to the sale of water to our neighbours to the south – is prohibited under this Act, and in order for that to change, we'd have to go back to the people of Alberta.

He also made the comment that the new water legislation specifies that the Regulations Act does not apply to water

guidelines that are developed – this is under section 14 – and that this allows for secret regulations. Well, Mr. Chairman, I don't believe that it is necessary to have every policy and guideline developed with the force of the law. I think that as we develop this co-operative spirit, there are number of those things that can be done without that heavy hand. We believe, for example, that the water guidelines could be developed without that heavy hand, and they deal with water conservation. So I'm not sure exactly how he feels that this is such a horrendous undertaking and that we're going to be doing a bunch of things in secret.

The Member for Bonnyville made the comment that the legislation requires that a framework for water management planning be developed but does not require that the water management plans be established. Well, it's true that we do have in the legislation that within three years there must be a framework developed that would deal with how the water management plan would be accomplished. One of the things that we've said is that during the development of those plans the public will be involved. If the public feels that there are areas that need protection or need to be in the water management plans immediately, that could be identified. So we would encourage people to make comments relative to that.

4:40

Calgary-North West also made a comment questioning how the 6,250 cubic metres for traditional agricultural use was determined. Well, as I indicated earlier, in all of this public consultation that went on as we were traveling around, particularly out in rural Alberta, we heard many comments about the volume of water that is necessary to operate an average or a viable farm. The number that continually came up was 5 acre-feet. Now, if you read the Act closely, you will see that we say a minimum of 5 acre-feet. So in fact in areas where there's a water management plan in place, the water management plan may very well indicate that it's some number much higher. It'll depend on the situation in the particular basin that we're talking about.

There's one other fairly substantial issue that was raised by the Law Society. In fact, in my meeting with the hon. Member for Sherwood Park he identified it as well. It's dealing with the grandfathering of the current licence. We have committed all along that we would be grandfathering the licences that currently exist. Now, there is an interpretation of the current wording in the Act, and this is under section 18(1) and (2), particularly (2), where we're talking about the grandfathering of these. There's an interpretation that in fact by grandfathering them, and particularly because of section 18(2)(b), portions of the licence would be outside the Act and that therefore the whole licence is outside the Act.

Mr. Chairman, I want to read into the record the sections that are causing the controversy. I think it's important that we read them all together. We can't just pick one part and look at that. Then I'll make some further comments on it. Section 18(1):

> Every authority or licence other than a temporary authority, agreement, permit, interim licence, updated and reissued interim licence and supplementary interim licence, granted under a predecessor Act that, on the date this Act comes into force, authorizes the diversion of water is a deemed licence that has a priority number that corresponds to the priority number of the original authority or licence.

Section 18(2):

> A person who holds a deemed licence under this section may continue to exercise the right to divert water in accordance with
> (a) the priority number of the deemed licence, and
> (b) the terms and conditions of the deemed licence and this Act, and if a term or condition of the deemed licence is inconsistent with this Act, that term or condition prevails over this Act.

Then we move down to section 18(5). "Subject to subsection 2(b), a deemed approval, preliminary certificate and licence under this section are subject to this Act."

Now, the part that is causing the difficulty in the minds of some is 18(2)(b), where we say that if it's inconsistent with the Act, the terms and conditions of the licence prevail. Well, Mr. Chairman, the Justice department believes that if in fact there was, for example, an emergency and the minister had to make a declaration under that emergency, the licences would be treated as if they were granted under this Act.

Now, some have said that the old Water Resources Act was different than this one. Let me read into the record as well the Water Resources Act, and here we find it in section 10(1):

> Every person who, on April 1, 1931, was entitled to divert or utilize or to divert and utilize any water by virtue of an authority, permit, interim licence or final licence granted pursuant to the Irrigation Act (Canada), the Dominion Lands Act or the Dominion Water Power Act, may continue to exercise the right
> (a) in accordance with the terms [or conditions] on which it was granted, and
> (b) subject to this Act and the regulations so far as this Act and the regulations are not inconsistent with the terms on which the right was granted.

So basically, Mr. Chairman, the verbiage is a little different, but the meaning is the same. This was implemented in 1931. We've gone all this time and have not had a problem, so we believe, as does Justice, that in fact the new Water Act, Bill 41, will still allow the minister to take action if it is deemed necessary.

Now, Mr. Chairman, I do have a few House amendments that maybe we could have distributed, amendments to Bill 41, please. While these are being distributed, I just want to comment on what we're doing here.

Since Bill 41 was introduced, there's been quite a bit of time to look at the Bill to see that things are all covered. We do have some housekeeping amendments that we're currently introducing. The first section will be correcting sections, references in the Bill – they're very, very straightforward – two will be adding a regulation and enabling provisions, and three will be cleaning up the verbiage, making the terminology and the regulations that are being brought forward consistent with the language in the new Bill. The reference there to the regulations being brought forward are under the South Saskatchewan River regulations.

THE DEPUTY CHAIRMAN: Hon. minister of the environment, do you want to put these all together?

MR. LUND: Yes, Mr. Chairman. I would like that we deal with the whole package at once and vote on the whole package at once.

THE DEPUTY CHAIRMAN: Thank you. It's your privilege.

MR. LUND: Okay. As we look through them, the amendment to section 26 is simply striking out and making it more clear.

Section 36(4) is amended by striking out (2)(c), and it's a wording issue.

Section 115(1)(i) is once again a correction in the numbering.

Section 142 is once again a whole numbering and wording amendment.

Section 143(2) is once again getting the numbering correct.

Section 169 is where we do add. We're

> designating and governing temporary diversions of water and

operations of works that must be carried out in accordance with the regulations;

(m.2) designating temporary diversions of water and operations of works for which notice must be provided under this Act, and respecting who is to provide the notice and how the notice is to be provided.

Then in (ii) we are once again striking out "canals" and putting in "a works;" number (iii) strikes out clause (z).

Section (3) is the one where we put in the ability for the Lieutenant Governor in Council to make regulations as it pertains to a number of various areas, including penalties.

Section 172 is amended. Once again in (a) it's by wording, in (b) the wording again, and in (c) we're adding the section where we will have to have consistency with the South Saskatchewan water allocation regulations and make sure that the controller of water resources is the same person as we're talking about when we say "director."

So, Mr. Chairman, I would move those amendments.

4:50

THE DEPUTY CHAIRMAN: Any questions?

The hon. Member for Sherwood Park.

MR. COLLINGWOOD: Thank you, Mr. Chairman. I was just trying to follow along with the minister's comments on some of the amendments that he was proposing, having not seen the amendments previously.

I guess the only thing I can do at this point, Mr. Chairman, is perhaps ask the Minister of Environmental Protection to once again speak to the issue of amendment F(b), just in terms of the rationale for the addition of the regulation-making power of the Lieutenant Governor in Council, for that series of amendments that are amendment F, changing section 169 in subsection (3) to add (a) through (g). Why is that provision coming forward now at this point in time? I didn't hear what his explanation was for that.

MR. LUND: Well, Mr. Chairman, in (3), if you read it,

the Lieutenant Governor in Council may make regulations

(a) providing with respect to any provision of the regulations under this Act that its contravention constitutes an offence.

So we're talking about the offences and then prescribing penalties. That was not included in the original Act, and it's similar to what you will find in other Acts. It was an oversight at the time of the drafting. Then we go on through with how these things would be accomplished: "the form and contents of notices," "for the purpose of section 152," the contraventions again, and the penalties. So they're basically administrative things that were not covered originally which allow the Lieutenant Governor in Council to make regulations relative to those.

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

MR. COLLINGWOOD: Mr. Chairman, thank you again. I really haven't had an opportunity to compare the administrative penalty provisions, that I just asked the minister to speak of, with the legislation as it currently stands.

I recall in having reviewed the Bill for myself that there was some inconsistency with respect to the administrative penalty and the offence section. In fact, I believe what I found – and I will not be able to lay my hands on that immediately – was one occurrence where if the administrative penalty was imposed, that would have been more than if the offence provision had been imposed. So if that is in fact the case, it will leave the Alberta public somewhat confused as to whether or not the administrative penalty provision is intended to be the more efficient process to deal with issues. I think the minister's position and policy is that the administrative penalty approach is a more proactive approach to dealing with offences under the Act as opposed to going with the prosecution route, which is much more adversarial.

Now, with respect to the inclusion of the $5,000 as the maximum penalty, if I'm reading the section correctly, hon. minister, we're suggesting that when we're dealing with "the administrative penalties that may be imposed, which are not to exceed $5,000 for each contravention" – Mr. Chairman, the minister will know that I have previously gone on record as being critical of that – you could indeed have circumstances where if the department goes the administrative penalty route in its effort to balance a confrontational, adversarial approach to regulatory enforcement as opposed to the conciliatory, co-operative approach under the administrative penalties, you are potentially opening yourself up to being seen to be very soft on those who are failing to comply with the rules and regulations as they appear either in the legislation or in the regulations. A maximum penalty of $5,000 could in some circumstances, of course, be nothing more than a slap on the wrist.

So if the policy that is being implemented by the minister is that the priority will be to go by way of administrative penalty and only in extreme circumstances will the government go by way of prosecution, I can certainly see offenders coming to the minister's office and saying, "Please take us through the administrative penalty route because it's going to hardly cost us anything." Of course, when you go through the administrative penalty route, you can avoid the prosecution, you can avoid the public exposure of prosecution. You can simply quietly make your way to the minister's office, write your cheque for $5,000, and be on your way. There really is not the same kind of censure that there would be through the prosecution route.

As I say, Mr. Chairman, the minister knows that I have made those comments, been critical of the administrative penalty route on the basis that the maximum penalty that can be imposed is $5,000. I believe in the Act – and perhaps the minister can assist me in pointing me to the section, because I don't just have it at my fingertips, that deals with the offences. In section 143 "a person who is guilty of an offence . . . is liable . . . in the case of a corporation, to a fine of not more than $1,000,000." So the offence section can allow for prosecutions and fines of up to $1 million.

Through this addition, an amendment to the Water Act, we have a provision that is similar to a provision that's in the Environmental Protection and Enhancement Act that allows the government to go either by way of prosecution or by way of administrative penalty, and if it goes by way of administrative penalty, they can knock down the potential for a polluting corporation to be subjected to a fine of up to $1 million. Now their maximum exposure under the change that the minister is proposing is going to be $5,000. It's knocked down from $1 million as a maximum penalty to $5,000 as a maximum penalty.

It is perhaps somewhat innocuous in the legislation, but the fact that it will be in the legislation allows the minister to indicate that the preference of the government is to go by way of administrative penalty. We saw that, Mr. Chairman, under the Environmental Protection and Enhancement Act, that again contains both provisions, the offence section and the administrative penalty

section. But where the minister chooses to go under the administrative penalty section, it then is impossible for the government to go through a prosecution. You can have one; you can have the other. But you cannot have both. So if the government goes by way of administrative penalty, then the prosecution is entirely off the table, and that exposure to the maximum fine of $1 million is gone.

So my concern is perhaps not so much that it's there but that with this particular government we have heard them say that their preference is to go by way of administrative penalty. Yes, we have had examples and we've had specific cases where the government has prosecuted. My concern is that we are, with a resource as precious as our water, going to become much more conciliatory in the way we're going to deal with the enforcement of the new Water Act, and that's something, Mr. Chairman, that I don't want to see happen when we are really going through a major shift in emphasis as to how we are going to manage the water resources of the province of Alberta.

With respect to some of the other amendments that the minister has tabled – and I know he is presenting them to us as a package – obviously, some of the amendments that the minister is bringing forward are clearly housekeeping. There's no question about that, just going through the list as I got it from the minister and checking off. Yes, there are typographical errors, perhaps some tightening up of some words, and going through those sections dealing with those kinds of minor changes. I can appreciate that the minister would be of the view that the addition of those new sections giving the Lieutenant Governor in Council greater regulation-making power would be seen by the government as being housekeeping amendments. Perhaps I see them slightly different, because it does make a significant distinction in the way the legislation first came forward and was tabled in that the offence sections were there. Yes, section 152 was there, that referred to the administrative penalty section, but we're encasing in legislation the maximum penalty that can be used for the administrative penalty. It will reduce flexibility and I think could be seen as an invitation to contravene the Act with very little consequences arising as a result.

5:00

I'm obviously less positive about the amendment put forward by the Minister of Environmental Protection, amendment F. It's unfortunate that they're coming to us as a package. I have some difficulty in agreeing with that one, notwithstanding that I would agree with some other ones. So unfortunately I won't be able to support the minister's amendment, although I recognize some are clearly housekeeping matters.

MR. LUND: Mr. Chairman, I would draw the hon. member's attention to section 143(1), that says: "A person who is guilty of an offence under section 142(2) . . ." If you look at 142(2), you see a whole list of areas where rather than the administrative penalty there would be prosecution. If the hon. member is really concerned about it, I think maybe the fact that we have had a $100,000 fine to an individual just recently when, if it were as the hon. member describes, we could have gone with an administrative penalty – no, that's not the idea, but you have to recognize what an administrative penalty is: somebody doesn't file the paperwork, somebody does something that is not harmful to the environment. Once we start getting into the area where it's harmful to the environment, I can assure you that we will be prosecuting; we will not be going the administrative route. But it makes no sense to take somebody to court because they didn't file something that was required or asked for and then have the judge give them a $1,000 fine, when in fact we have used up a bunch of time and money and accomplished really nothing. So I have comfort when I read this 142(2) and see how in fact up to $1 million could be applied for those kinds of offences. If it's going to harm the environment, we will be at it with the prosecution.

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

MR. COLLINGWOOD: Thank you, Mr. Chairman, and I'll try to be a bit more specific in where the concern is. Section 152 of the Bill currently says that the director can go by the administrative penalty route where there's a contravention of the Act "specified for the purposes of this section in the regulations." Now, my understanding is that the inclusion of the amendment that the minister is putting forward now is because there was no regulation-making power given to the Lieutenant Governor in Council to identify those provisions of the Act specified in the regulations. So what the minister is doing is putting forward here in this amendment the regulation-making power for the Lieutenant Governor in Council to identify the sections of the Act for which the administrative penalty will apply.

Now, fair enough, Mr. Chairman, but the difficulty is that we had the same thing happen under the Environmental Protection and Enhancement Act. The concern is that the major offence sections under the Environmental Protection and Enhancement Act were also specified sections for purposes of the administrative penalty. So in my view, what it did under the Environmental Protection and Enhancement Act is in large measure – not entirely, because the Minister is correct that there have been prosecutions under the Environmental Protection and Enhancement Act. But it did to a large measure gut the offence sections of the Environmental Protection and Enhancement Act, because the director now has the ability to pull out of the regulations all of the offence sections and go by way of administrative penalty rather than going by way of prosecution. So it leaves the discretion, then, to the director or to the minister to decide not so much necessarily on the merits but who the offender is, as to whether it will be by way of prosecution or whether it will be by way of administrative penalty.

If, for example, section 143(1) is designated as one of the sections for which the administrative penalty provisions can apply – and we won't know that, Mr. Chairman, because it's going to be done by regulation and it's going to be done behind closed doors. The minister might put it in the package that he has distributed. We might get an opportunity for public consultation. I'd certainly suggest to him now that something like section 143(1) should not be there. If the administrative penalty provision includes 143(1), you've just knocked down the $1 million maximum penalty to a maximum penalty of $5,000.

So, yes, hon. minister, we can say, "Oh, we would never put section 142(2) under the administrative penalty sections," but that's exactly what happened under the Environmental Protection and Enhancement Act, and I'm going to assume that that's exactly what's going to happen under the Water Act. So that's where my concern and my criticism of this particular amendment come in, not so much that the Lieutenant Governor in Council will have the ability to decide which of the offence sections the administrative penalty provisions apply to, but I then look to see that it cannot exceed $5,000. The combination of that with the Lieutenant Governor in Council designating all offence provisions as being

subject to the administrative penalty section and recognizing that the maximum penalty that can be imposed is $5,000 on the grid that the minister has developed for low, medium, and high, or something like that, the three areas in his little nine-box grid from lowest to highest, the maximum being $5,000, creates the potential for deciding who the offender is as much as what the offence is, as to whether the government chooses to prosecute or whether they choose to go by administrative penalty.

So I understand what the minister is doing by putting it in. It has to complement section 152 as it currently is in the Act, because the minister knows that what I would be doing is saying: "Well, Mr. Minister, you've got section 152, and then there's nothing in the regulation. So how are you going to make this happen?" So he's going to say that I'd be criticizing him either way: whether he was putting this in, I'd be criticizing; whether he forgot to put it in, I'd be criticizing him. Nonetheless, the concern is that that's what's going to happen. Yes, we have to put that section in.

The maximum administrative penalty of $5,000 causes some concern, and obviously my concern, Mr. Chairman, is that the government may or may not seek public input as to what offence sections of the Water Act would be subjected to the administrative penalty and which ones would not.

[Motion on amendment A1 carried]

5:10

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

MR. COLLINGWOOD: Thank you, Mr. Chairman. I want to open my comments this afternoon in Committee of the Whole on Bill 41 and make some comments on the minister's overview of the public consultation process. The minister started his comments this afternoon by responding to concerns from the Member for West Yellowhead about the public consultation process.

I think it's fair to recognize that on this particular piece of legislation that is now before us as Bill 41, there has been indeed an enormous amount of public consultation that has taken place to get us to the point where we are at Bill 41. We are here in the summer of 1996. In fact, it was five years ago, in 1991, that the public consultation process began on the revision of water legislation, recognizing that even as we crossed the threshold into the decade of the 1990s, we had legislation that was at that point 60 years old, and we wanted to look at new and better ways of managing our most precious resource in the province of Alberta, being our water.

We did through the public consultation process. We had a government draft revision. We had public input at open houses and workshops across the province in 1995. We also had in 1995 the report of the Water Management Review Committee, which was put in place and which contained a very broad section of representation from various stakeholder groups across the province. It was their role to summarize and evaluate public input. On the first draft of the legislation members will recall we saw Bill 51 come to the legislative Chamber. That particular Bill died on the Order Paper. Further comments were received by the minister, to the point where we now have Bill 41 coming to us in 1996, first reading in April of this particular year.

So while I certainly concur with the minister on the issue of public consultation that has taken place, I think one of the points that the minister missed and I want to get on the record is that the Water Management Review Committee was the committee that took all of that public consultation, all of the comments that came through to the chairman of the Water Resources Commission, Mr. Chairman, whom I know you know very well, and compiled it and worked with it and spent hour upon hour dealing with the consultation and the input from Albertans to come up with its report to the minister.

Now, the Water Management Review Committee report was an excellent report in that the stakeholders that were involved in that process indicated whether or not their recommendation to government was unanimous, that there was unanimous support of that particular recommendation, whether it was strongly supported or whether there was weak support for a particular recommendation, so anyone reading that report would know whether it was the essence of the Water Management Review Committee report or whether it was somewhat tangential to that report.

One of the things that I heard from stakeholders on the Water Management Review Committee and one of the things that they could not understand in the whole public consultation process is that the unanimous recommendations from that entire body giving input and taking their time and energy to help the minister and to help the government draft good legislation – the unanimous recommendations of the Water Management Review Committee were not adopted. The guide to Bill 51, that was published with Bill 51 last year, did not assist as to why the minister, why Legislative Counsel, in drafting Bill 51 last year and Bill 41 this year, did not adopt the unanimous recommendations of the Water Management Review Committee that came out of the public consultation process.

Mr. Chairman, I recall in the last couple of days the Member for Lethbridge-West standing in his place and talking about: why would people agree to become involved in a public consultation process when the outcome of that process does not reflect the input into the process? He was referring, as you know, Mr. Chairman, to the Electoral Boundaries Commission, which we are also debating in this Legislature in this session in dealing with Bill 46. Nonetheless, here we are dealing with Bill 41, but perhaps the argument is the same. Why will Albertans agree to become involved in a public consultation process when the outcome does not reflect the input? In this case the input was seen in a number of unanimous recommendations through the Water Management Review Committee that are nowhere to be found in the output, being Bill 41 and last year being Bill 51.

Now, some of those are issues that I'm going to deal with this afternoon and beyond really start right at the very beginning of the Bill and really fail in my view and certainly in the view of many other Albertans who have a keen interest in the protection of Alberta's waters and the ecological and biological integrity of Alberta's waters. The Act clearly falls short in a number of areas.

When you look at section 2 of the Water Act, Mr. Chairman, it says that "the purpose of this Act is to support and promote the conservation and management of water." Now, it goes on to qualify that statement in a number of different ways. Nonetheless, the purpose statement is that it is "to support and promote the conservation and management of water." Yes, it does go on to say that there is a shared responsibility of all Alberta residents to conserve and wisely use water and to be part of the decision-making process. It goes on to talk about working co-operatively, "the need to manage and conserve water resources to sustain our environment."

Well, all right. We have now clearly a purpose section of this Act that is very, very different from what we currently have under the Water Resources Act. That really was the intent all along, and in fact I think it's fair to say that the government were the

drivers of that change in attitude starting right back in the review in 1991, recognizing that we had outdated legislation in our water resources legislation and that that legislation really did not make any effort, make any attempt to deal with issues of conservation or deal with issues of ecological integrity of the aquatic ecosystem.

Now, you get into the sections under part 2 – well, maybe what I'll do, Mr. Chairman, is stop at this point. I have a package of amendments that I'm going to distribute to members. I will be introducing these amendments independently rather than as a block so that we can speak to each one of the amendments. If the minister is so moved, he can respond on the record to each of the amendments that I'm proposing, and I will give a reason for the amendments that I'm proposing. I will distribute the amendments now, but I will be moving them independently.

THE DEPUTY CHAIRMAN: Hon. Member for Sherwood Park, if you'd just give a minute for the pages to distribute them.

MR. COLLINGWOOD: The pages are distributing copies of the amendments. There are a couple of pages of amendments that deal with a number of provisions under the Act. They're indeed subject to the debate, Mr. Chairman, and there may be another amendment coming forward.

The minister was referring to the controversy that surrounds section 18(2)(b). He is certainly aware that I take a contrary view, and I will be speaking to that in debate as I deal with my amendments.

Perhaps, Mr. Chairman, what I will do at this point in time is allow the pages to continue distributing the amendments for all members. I will refrain from moving the amendments at this point in time. Members will have an opportunity, then, to review these amendments to prepare for comments and debate.

With that, Mr. Chairman, I move that we adjourn debate on Bill 41.

5:20

THE DEPUTY CHAIRMAN: The hon. Member for Sherwood Park has moved that we adjourn debate on Bill 41. All those in favour, please say aye.

HON. MEMBERS: Aye.

THE DEPUTY CHAIRMAN: Opposed, if any? Carried.

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

[Motion carried]

[Mr. Herard in the Chair]

THE ACTING SPEAKER: The hon. Member for Dunvegan.

MR. CLEGG: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration certain Bills. The committee reports Bill 49. The committee reports progress on Bill 41. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

THE ACTING SPEAKER: Does the Assembly concur with the report?

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? Carried.

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