## Legislative Assembly of Alberta

**Title: Wednesday, April 23, 1997 1:30 p.m.**
Date: 97/04/23
[The Speaker in the Chair]

head: **Prayers**

THE SPEAKER: Welcome. 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 establish and maintain a land of prosperity and righteousness where freedom prevails and where justice rules.

Amen.

Please be seated.

head: **Presenting Petitions**

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

DR. MASSEY: Thank you, Mr. Speaker. I beg leave to present a petition on behalf of 20 constituents of Edmonton asking and urging the government of Alberta

> to review and revise procedures for eligibility requirements for financial subsidy under the Capital Region Housing Corporation.

Thank you, Mr. Speaker.

THE SPEAKER: The hon. Member for Edmonton-Gold Bar.

MR. MacDONALD: Thank you, Mr. Speaker. I beg leave to introduce a petition to this Legislative Assembly

> to urge the government of Alberta to enact legislation that would prevent the use of replacement workers during strike action.

This petition has been signed by 76 concerned Albertans.

head: **Notices of Motions**

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

MS CARLSON: Thank you, Mr. Speaker. I stand now to give notice that after question period I will rise pursuant to Standing Order 40 to present the following motion:

> Be it resolved that this Assembly congratulate Rio Terrace elementary school for being the third school in Edmonton and the 15th school in the province to achieve Earth school status.

head: **Tabling Returns and Reports**

THE SPEAKER: The hon. Minister of Public Works, Supply and Services.

MR. WOLOSHYN: Thank you, Mr. Speaker. In accordance with chapter 11, section 12 of the Engineering, Geological and Geophysical Professions Act it is my pleasure to table the 1996-97 annual report of the Association of Professional Engineers, Geologists and Geophysicists of Alberta. Should any of the members wish to review these reports, additional copies are available through my office.

MR. JONSON: Mr. Speaker, I am pleased to table with the Assembly the annual reports of the following regional health authorities for the year ended March 31, 1996: Crossroads regional health authority, Palliser health authority, Chinook regional health authority, WestView regional health authority, Peace regional health authority, East Central regional health authority No. 7, regional health authority No. 5, and the David Thompson regional health authority.

Also, Mr. Speaker, I am pleased to table with the Assembly and provide copies to all members of the following: the annual report of the Alberta Registered Dietitians Association for the year ended March 31, 1996, and the annual report of the Public Health Advisory and Appeal Board for the year ended July 31, 1996.

Thank you.

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

MR. DICKSON: Thank you, Mr. Speaker. I'm pleased this afternoon to table copies of a submission by the Alberta Civil Trial Lawyers Association proposing that this province enact a piece of legislation to allow class actions in this province so claimants and plaintiffs don't have to travel to B.C., sir, to ensure that they can seek some recourse through their court system.

Thank you.

THE SPEAKER: The hon. Minister of Education.

MR. MAR: Thank you, Mr. Speaker. It gives me pleasure to rise and table copies of letters to 15 schools in the province of Alberta who have achieved the status of Earth school under the SEEDS program. Yesterday I had the privilege of attending the ceremony of the 15th school to join this club with the deputy Leader of the Opposition. That school is Rio Terrace school here in the city of Edmonton. On behalf of the government I offer congratulations to all 111 Alberta schools who are committed to this environmental program.

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

DR. MASSEY: Thank you, Mr. Speaker. I would like to table four copies of 72 letters addressed to the Minister of Education by Albertans concerned over the funding levels for education in the province.

THE SPEAKER: Hon. members, I table with the Assembly the report of the Ethics Commissioner dated April 21, 1997. The report is with respect to the investigation involving the hon. Premier and the Treasury Department. A copy of the report is being distributed to all members.

head: **Introduction of Guests**

THE SPEAKER: The hon. Minister of Federal and Intergovernmental Affairs.

MR. HANCOCK: Thank you, Mr. Speaker. It's my pleasure today to introduce to you and through you to members of this Assembly 41 grade 6 students and two teachers from the Brander Gardens elementary school in the riding of Edmonton-Whitemud. They're here today with a keen interest as to how the provincial government works, and they're accompanied by their teachers Mrs. Martin and Mrs. Gago-Esteves. They're seated in the members' gallery, and if they'd please stand, I'd ask the House to give them the traditional warm welcome.

THE SPEAKER: The hon. Member for Calgary-West, followed by the hon. Minister of Family and Social Services.

MS KRYCZKA: Thank you. I would like to introduce to you, Mr. Speaker, and through you Gerard Meagher, QC, and his associate Joanne Crook. I'm very proud to inform people here today that Gerry's most recent achievement is as a very successful 16-day campaign chair. Thank you. Gerry and Joanne.

THE SPEAKER: The hon. Minister of Family and Social Services.

DR. OBERG: Thank you very much, Mr. Speaker. It's a pleasure today to rise and introduce to you and through you 39 students from the Rosemary school in Rosemary, Alberta. There are also six adults with them. I'd like to introduce Mr. David Blumell, the vice-principal; Mr. Jon Knights, the principal; Mr. Ron Wallace; Mrs. Faye Dyck; Mrs. Wanda Lepp; and Mrs. Lorill Wallace who have made the trip from Rosemary, Alberta, to be with us today. Could you please rise and receive the warm welcome of the Assembly.

## head: Oral Question Period

THE SPEAKER: The hon. Leader of the Official Opposition.

### Ethics Commissioner's Report

MR. MITCHELL: Thank you, Mr. Speaker. The ethics report tabled today in the Legislature raises serious questions about the inappropriate actions of the former Provincial Treasurer during the 1997 election campaign on behalf of the Progressive Conservative Party. This minister ordered his department to violate the public trust by doing work for his political party, the Conservative Party. This insider information, not available to the public under the terms of the Conflicts of Interest Act, I might add, was then used by the Premier during the election campaign. To the Premier: what immediate action will you take to make sure no more taxpayers' dollars are used for purely political purposes in cases like these?

MR. KLEIN: Mr. Speaker, I've just got a copy of the report. As a matter of fact, I received a copy about a half hour ago and this copy here today. I haven't had a chance to read the general advice offered by the Ethics Commissioner, but I will take his advice under consideration. I deem that advice to be good advice, and I would suspect that the opposition Liberal Party will do the same.

*1:40*

MR. MITCHELL: He may have seen it a half an hour ago, Mr. Speaker; he's had the issue for about two months to think about.

Will the Premier take action to ensure that all employees identified in the report, especially those providing directives on behalf of the former Treasurer and one at the most senior levels in the Premier's office itself, are appropriately disciplined to prevent further violation of the public trust?

MR. KLEIN: Mr. Speaker, there was no violation. The Ethics Commissioner, as I understand it – and I haven't read the full report – has pointed out that this information is available anyway. When we present a budget, Treasury of course will do an assessment of this budget. As a matter of fact, they do a very, very significant assessment, because they help prepare the budget. But when any opposition party or when anyone presents a proposal – in this case, as I understand, during the election it was a proposal in our estimation that amounted to some $4.1 billion in Liberal promises. Then, God forbid, had the Liberals been elected, Treasury would have had to deal with that. Naturally they're going to do an assessment. Mr. Speaker, the hon. leader of the Liberal opposition would have had access to that information had he asked.

MR. MITCHELL: But I knew it to be wrong, Mr. Speaker, so why would I want it?

On April 16, 1997, the Premier stated in this Legislature that the election was fairly fought and very clean. Is making government departments available for use by the Progressive Conservative Party during an election campaign his idea of a fair and clean election, Mr. Speaker?

MR. KLEIN: Mr. Speaker, once again I will reiterate that I will read very carefully the advice of the Ethics Commissioner and perhaps bring forward as a matter of policy some procedures that will abide by that particular advice.

Mr. Speaker, the Progressive Conservative Party, I would remind the Liberal opposition, is the government. We were elected. We won the election; they lost.

MR. SAPERS: Point of order.

THE SPEAKER: Recognized.

Second main opposition question, the hon. Member for Edmonton-Glengarry.

### Seniors' Tax Rebates

MR. BONNER: Thank you, Mr. Speaker. Each year $14 million, 14 million sweat-soaked dollars, come out of Alberta seniors' purses and wallets into the province's coffers as a result of changes to the federal income tax age credit. The Premier had promised, had given his word that any additional money flowing into government coffers because of federal changes would be rebated. The former Treasurer said that seniors' tax dollars were returned. The Treasury Department says that the money hasn't been returned. I would like to table a copy of the Treasury Department's election costing of Alberta Liberal campaign promises showing 14 million additional dollars per year needed to rebate seniors' tax dollars. My question to the Premier: who's right? Who should seniors believe: the former Treasurer or the Treasury Department?

MR. KLEIN: Mr. Speaker, I will defer to the hon. Provincial Treasurer.

MR. DAY: Mr. Speaker, I appreciate this question coming. There are a number of references there which I don't have in front of me at this time, something that's just been tabled there. So I'm pleased to say that I'll do some follow-up on this and look into it and respond in a way that shows that I've looked into the matter.

MR. BONNER: My supplementary: how can this government go around saying that there are no new taxes, no increases in taxes when clearly it has increased its tax take from senior citizens' income taxes? I thought you had a spending problem not a revenue problem.

MR. DAY: Well, Mr. Speaker, now we're on to a different item here. The question was asked: how can this government say that there are no new taxes? It's like this: there are no new taxes.

MR. BONNER: Mr. Speaker, will the Premier commit right here, right now to get to the bottom of this, come clean with seniors, and tell them once and for all whether he intends to keep his word and finally rebate their money?

MR. KLEIN: Well, I take that as a question that deserves some examination, Mr. Speaker, and I will give the undertaking to the Liberal opposition to try to find the answers.

THE SPEAKER: Third main opposition question, the hon. Member for Edmonton-Mill Creek.

### Alberta-Pacific Forest Industries Inc.

MR. ZWOZDESKY: Thank you, Mr. Speaker. Yesterday in this House in relation to the Al-Pac loan I revealed that $29 million is curiously absent from Budget '97. However, I was encouraged by the Premier's and Treasurer's earlier comments that they do not foresee any problems collecting the entire $371 million which is now owing to Alberta taxpayers. Nonetheless, I am still concerned that their optimism may be somewhat dampened by this case of the missing millions, so my question is to the hon. Provincial Treasurer. Mr. Treasurer, why was this $29 million not reported and not added to the already existing amount owing by Al-Pac?

MR. DAY: Mr. Speaker, in the few consultations I've had with my critic from the opposition party, he committed something to me on which I take him at his word, and that is that when the government does something which in his view is worthy of being noted as being a good thing, he will comment on that, and when he thinks we've slipped or goofed somewhere, he's going to comment on that, and I would expect that. I've already heard him actually on a couple of occasions give credit to some of the things this government has done in this budget, and I commend him for being willing to do that.

It's interesting that he raised this particular item, because it was an issue which I raised – I think it was the first week on the job – with Treasury officials in looking at the document and in fact noting that the accrued interest was not being added on, as it had been in previous years. We engaged in a discussion about accounting methods which, frankly, left me a little bit lacking in understanding.

I made the clear commitment that we need to continue to record this interest as accrued, because in fact – and this is very important, Mr. Speaker – Al-Pac does owe the entire principal and the entire accrued interest. They are not in default at this time. They do owe the entire amount. Through a suggested accounting change, showing what is called a reversal of interest, Treasury officials were indicating at that time that they would not be putting it in. I gave clear indication: we are going to continue to show this as being added to. In fact then the update did not take place. It was an oversight on the part of Treasury, which through the good work of the opposition was brought to my attention. I take full responsibility for that. I signed that document, and in fact it wasn't recorded the way I wanted to see it recorded here.

Mr. Speaker, today I table for you and for all members four copies of errata to Budget '97: Post-Election Update. Even though it's still a matter of fact and guaranteed, for the public record the money here is now showing as having accrued. I've also written to the Auditor General to make sure that he will take a close look in terms of loans, loan guarantees, and long-term investments and how we do record them to make sure that it is strong and it is sound.

Once again I congratulate the opposition for pointing out this oversight, and I do take responsibility for that.

MR. ZWOZDESKY: Thank you, Mr. Treasurer. I appreciate your admission of the oversight. Giving credit where credit is due, it's part of what we do as a vigilant opposition, and I'll take your word to continue in that same spirit of co-operation in the future.

I just want to follow this with a supplementary question, Mr. Speaker.

THE SPEAKER: Hon. member, again, let's revert to the question of preambles. You had a very nice preamble congratulating the Provincial Treasurer, but you know, we asked for no preambles.

*1:50*

MR. ZWOZDESKY: Thank you, Mr. Speaker. I simply want to follow that admission with a question to the Treasurer that goes like this: will the Treasurer now confirm if he or his department have any concerns whatsoever surrounding the collectibility of this loan to Al-Pac?

MR. DAY: I won't congratulate the member for the question, because we've been instructed not to do that.

Mr. Speaker, I'd like to say that I have a crystal ball, that I can project all economies of scale and say for certain that Al-Pac will continue to be a strong company. I hope that is the case. I'm being totally transparent here. I hope that is the case.

We're in a strong economy right now. Al-Pac, as I've said, is responsible to pay the full amount of principal, the full amount of accrued interest, and I hope that the economy stays strong, that that business stays strong, and that in fact, although they are not in default now, we will see the day when we will be in full collection of what is owing here.

MR. ZWOZDESKY: My final supplemental is along the same lines, Mr. Speaker. I'd like to have the Provincial Treasurer just reassure Alberta taxpayers that we will in fact receive every last payment, and perhaps he might comment on how he intends to pursue this first payment that has now been missed.

MR. DAY: Well, to differentiate here, Mr. Speaker, there is no default at this time. The agreement as written and as is published in our public accounts – as a matter of fact, I could table a copy of that from the page itself of the public accounts just so all members know that it does exist. I have it right here: a copy that shows the formalized parts of this agreement. Indeed, it has the dates, it has the rates of interest, and it shows when the payments have to happen. So they are not in default at this point.

The agreement here, which I'll table from this page that is in our public accounting process, shows, again to reassure the member – and it is very clear in the contract – that Al-Pac is required to pay the full amount of principal, the full amount of interest. They are not in default at this point. We show in the record, which I've also tabled, how much each year should be accounted to what is owing. They are not in default at this point when you look at the time lines in terms of when they're required to make the payments.

There is no doubt on the part of any Al-Pac officials that I have talked to that they are required to pay that amount. If they need a reminder of that or if the hon. member thinks they need a reminder of that, we are happy to do that through the loan agreement, which is very clear. They must pay. They must pay in full. That is what we are requiring from them.

### Safeway Labour Dispute

MS BARRETT: Mr. Speaker, last Tuesday I wrote to the Justice minister asking him to inquire about why Calgary city police were preventing peaceful picketing outside of Calgary Safeway and Food for Less stores. I've got copies of the letter, which I'm prepared to file with the Assembly. By law these people are allowed to picket, and the Calgary police are intervening in preventing that even though there's no situation that has occurred which would warrant that. My question now to the Minister of Justice is: what action has he taken to ensure that the Calgary city police are not unfairly interfering with the law?

MR. HAVELOCK: Yes. Thank you. Mr. Speaker, upon receipt of the letter I did discuss it with the deputy minister. As of yet I have not had a response, although I will assure the hon. member that when I do get a response on that I will certainly get back to her as quickly as possible. Certainly we're concerned if the police are doing anything in contravention of the rights of the strikers, and I've asked him to look at it quickly.

MS BARRETT: Thank you, Mr. Speaker. To the minister. I didn't c.c. this letter to the Minister of Labour, but I assume that he has had complaints filed in his office about these actions in Calgary, and I'm wondering what action he's prepared to take now or has taken to make sure that the picketers have the right to do what the law allows them to do.

MR. SMITH: Thank you, Mr. Speaker. In fact, we have no record of any protest being filed, any intervention taking place. This is the first I've heard of this issue from the hon. member. In fact, in my travelings around Calgary I have not noticed where there has been any intervention taking place, nor have I noticed a great deal of friction taking place between consumer, picketer, or management.

The last thing, Mr. Speaker: I know that there is an informal protocol on the line and that for the most part it's being adhered to in the Calgary situation.

MS BARRETT: Mr. Speaker, my last supplementary is to the Minister of Family and Social Services, whose department is issuing emergency vouchers to the most needy people payable to Canada Safeway, which has the effect of the government taking sides with Safeway. My question to the minister is this: during the duration of this labour dispute, would he ask his department to please start issuing vouchers to other main grocery retailers as opposed to Canada Safeway?

DR. OBERG: Thank you very much, Mr. Speaker, and thank you to the hon. leader of the New Democrats for bringing that to my attention. It's certainly our policy not to side with anyone in a strike. I think it's an important thing, and I will direct my department to do that.

MS BARRETT: Thank you.

THE SPEAKER: The hon. Member for Peace River, followed by the hon. Member for Calgary-Buffalo.

### Flooding

MR. FRIEDEL: Yes. Thank you, Mr. Speaker. My question is to the Minister of Transportation and Utilities, responsible for disaster services. Yesterday the minister and I along with our colleague from Fort McMurray went to Peace River and later to Fort McMurray to look at the damage as a result of the recent flooding. While we were there, we met with some of the disaster victims and some of the community leaders. I wonder if the minister can tell us what he's been able to do to activate the disaster relief program to assist these communities.

MR. PASZKOWSKI: Thank you, Mr. Speaker. Yes, this is a very unfortunate tragedy for both the residents of Peace River and the residents of Fort McMurray as well as other small communities that are experiencing many of the same difficulties. These are very trying times, very difficult times, very stressful times, and very fearful times for those who've been directly involved.

We've had our disaster services people meeting with the communities, and certainly before all of this happened, there's been adequate training. In Peace River's case, of course, there was an evacuation of some 4,000 people that happened within a very minimum amount of time, because when the flood actually happened, the water rose very dramatically and only provided a very minimal time for evacuation.

Our disaster services people have been working with the municipality, who, by the way, is in control during a situation such as this, and I want to compliment the municipality of Peace River as well as the municipality of Fort McMurray for the proactive approach that was taken and the excellent response that was taken and the organization that was there that's allowed all of this to take place, even though there's a huge disaster ongoing, without a casualty, without a fatality, without any loss of life whatsoever.

MR. FRIEDEL: To the same minister, Mr. Speaker. I wonder if he can tell us how soon information as to what to do, how to register, and this sort of thing would be made available to the victims.

MR. PASZKOWSKI: As of this afternoon, Mr. Speaker, we'll be setting up an office in Peace River. The office will be fully staffed. Information, applications will be available to the residents that have been affected, and the criteria will be explained. Any information, any questions, any applications will thus be taken starting today in Peace River.

THE SPEAKER: The hon. Member for Calgary-Buffalo, followed by the hon. Member for Olds-Didsbury-Three Hills.

### Nursing

MR. DICKSON: Thank you, Mr. Speaker. Licensed practical nurses and registered nurses both have important and complementary roles in the Alberta health care system, but this government has attempted several times to move registered nurses out of the operating room and replace them with people with less training. Each time public opposition has forced the government to scrap those initiatives, but now we understand that yet another plan was hatched in a secret, closed government meeting this morning.

Now, my question is to the hon. Minister of Health. Since he's already . . .

AN HON. MEMBER: Were you there?

MR. DICKSON: That's the problem with secret meetings.

Since the minister has already chopped 8,000 nursing positions in this province, how many more nurses will be cut as a result of the new policy?

*2:00*

MR. JONSON: Well, first of all, Mr. Speaker, the hon. member's report on recent events is inaccurate, but I would like to certainly comment on the overall topic that the hon. member raises.

Mr. Speaker, I think it's important to realize – and I think most hon. members do – that in the area of the health professions there are ongoing proposals, requests, debate as to the appropriate scope of practice. Certainly in the case of nursing we have the Alberta Association of Registered Nurses, which is advocating, making representation for expanding their scope of practice. Likewise, so has been the case with the licensed practical nurses. The scope issue with respect to the licensed practical nurses is something that's been under consideration for some time. We do hope to conclude that process in the fairly near future.

The important thing, though, here – and I think all members would agree – is that a medical practitioner be properly trained, properly qualified to offer the service that they are approved to provide. That is the basis, the principle on which we are operating throughout the health care professions and on which we are operating here.

MR. DICKSON: Does the government, Mr. Speaker, have a current intention to eliminate the existing requirement that licensed practical nurses must work under the direction of a physician or a registered nurse?

MR. JONSON: Mr. Speaker, within the positions that nurses operate, there are supervisory personnel: doctors in the case of certain aspects of hospital operations, registered nurses. In fact that was a major topic that was resolved in the recent UNA negotiations with the regional health authorities. So there is certainly the assurance that there is appropriate supervision of personnel within the health care system, and that is something that government wants to see continue.

MR. DICKSON: I'll put my specific question to the minister again, because I still don't have a response. Does the government have a current intention of eliminating the current requirement that a licensed practical nurse must work under the direction of a physician or a registered nurse? Yes or no?

MR. JONSON: Mr. Speaker, where the supervision of a doctor or a registered nurse is required to assure the proper care and safety and proper provision of services throughout the health care system, we certainly support that appropriate and proper supervision. We are certainly committed to the people involved in the health care system having the appropriate training in order to safely and appropriately offer services to the patients in the province.

THE SPEAKER: The hon. Member for Olds-Didsbury-Three Hills, followed by the hon. Member for Edmonton-Riverview.

## Personal Directives Act

MR. MARZ: Thank you, Mr. Speaker. My questions today are directed to the Minister of Health. A number of my constituents have expressed concerns over Bill 35, the Personal Directives Act, which was passed by the Legislature in 1996. In particular, they're concerned that the legislation opens the door to euthanasia. Could the minister advise the Assembly as to what measures he is taking to ensure that Bill 35 has adequate safeguards against euthanasia?

MR. JONSON: Mr. Speaker, the Personal Directives Act was passed by this Assembly, I believe with support from both sides of the House, in May of 1996. It built upon the legislation and the experience of other provinces and, I think, a number of the states in the United States to the south. The provisions of the Bill are quite clear, and they state that euthanasia or assisted suicide is prohibited by this legislation.

MR. MARZ: To the Minister of Health: given the concerns that have already been expressed, will additional safeguards be incorporated into the regulations?

MR. JONSON: Yes, Mr. Speaker. The regulatory framework is being worked on, and we are taking considerable time to do that. There has been, I think, very thorough consultation with interested parties in the province on those regulations, and they are certainly going to take into consideration every possible safeguard with respect to the question raised by the hon. member.

MR. MARZ: Also to the Minister of Health: what types of materials will be prepared to inform Albertans as to what can be included in the personal directive, and when can we expect materials to be available to my constituents?

MR. JONSON: Mr. Speaker, I do not have a specific date at this particular point in time, because, as I've indicated, we want to make sure that we have done a very thorough job of developing the regulations and also of developing, in answer to the other question the hon. member raised, a good education package for Albertans and particularly for those individuals that may want to use this particular piece of legislation.

THE SPEAKER: The hon. Member for Edmonton-Riverview, followed by the hon. Member for Red Deer-South.

Hon. member.

## Child Poverty

MRS. SLOAN: Thank you, Mr. Speaker. My family and I each year at Christmas have made it a practice to adopt a needy family. An experience with such a family comes prominently to mind today as I raise these questions. As I was about to leave after delivering gifts, a Christmas tree, and stocking stuffers, the oldest child, a six-year-old boy, looked at me and said: thank you for bringing the food. I have seen the face of hunger, and it is a face that I will not forget. My questions are to the Minister of Family and Social Services. In this week's budget speech the ministry saw fit to recommend increases – for departments, the standing policy committee – to the tune of $400,000. In addition, a $5 million increase for computer expenditures. Why, Mr. Minister, is there funding for computers but not for food?

DR. OBERG: Thank you very much, Mr. Speaker. The hon.

member asks a very interesting question. First of all, there is an increase in the budget for program, and we are increasing the income supports for both SFI and AISH in the upcoming budget when it is passed.

The one point that I would really like to bring up is that as the year 2000 approaches, we are running into a very difficult problem. With the year 2000 those people that are computer literate realize that the computers are going to have a very definite issue with the double zeros in the year 2000. We felt it imperative that we upgrade our computers so indeed these very people – these very people – can receive their cheques, receive their income support in the year 2000 in a very quick fashion. Mr. Speaker, if we did not take these precautions these people would not be able to receive this income support.

MRS. SLOAN: Thank you, Mr. Speaker. My second question is also to the Minister of Family and Social Services. The money allocated in this year's budget only meets the needs of three out of 20 schools that need hot lunch programs. What actions will the minister undertake – not next week, not next month, not nationally – to fund the 17 school lunch programs this city needs?

DR. OBERG: Thank you very much, Mr. Speaker. First of all, the member has hit upon a couple of issues. I addressed yesterday the issue of child poverty and how important that is in our agenda and how important that is on the national agenda as the ministers meet. We are working with the federal government to address the $600 million national child benefit and how it applies.

With regards to the welfare rolls and welfare rates I would direct the hon. member to read the C.D. Howe Institute report, which states that Alberta leads the country in welfare reforms and that the rest of the provinces should follow Alberta's lead in getting people back on the workforce and off the welfare rolls.

MRS. SLOAN: Mr. Speaker, children are hungry. Now, today. What immediate steps will the minister undertake if not to address the issue of food to address the long-term chronic problems – health, dental, emotional, and school performance problems – resulting from child poverty?

DR. OBERG: Thank you very much, Mr. Speaker. Again I must remind the hon. member that Alberta presently has the fourth lowest rate of child poverty in Canada, the fourth lowest rate as brought out by the National Council of Welfare.

I would also submit, Mr. Speaker, that we are taking the most important first step in addressing this issue by implementing more regional delivery of children's services. The answer to a solution in Edmonton is not the same as the answer to the solution in Brooks or High Prairie.

I would invite the hon. minister for children's services to comment on that initiative.

*2:10*

MS CALAHASEN: Thank you, Mr. Speaker. First of all, I believe that when we're talking about poverty, it's difficult to define. All across this nation we've been trying to determine what poverty is. I really believe that what we're doing in the children's initiative is so important. As we move the authority and the responsibility back to the community, we begin to see what needs to be done within the community, and the community then determines what has to happen.

As an example, Mr. Speaker, we have funded one program in Edmonton regarding food for children who are in need of a hot lunch. I think this is an indication of how a community came together to indicate the need and for us to be able to press on that issue, and I'd like to commend that committee for making sure they brought this to our attention and brought it as an important item.

## Speaker's Ruling
## Exhibits

THE SPEAKER: Hon. members, before I call on the hon. Member for Red Deer-South, I detected a little rise in temperature during this series of questions and answers, and perhaps it had to do with the fact that the Speaker failed to point out to the hon. member who raised the question *Beauchesne* 501, which indicates that it is improper to produce exhibits of any sort in the Chamber. I believe that the hon. member did have an exhibit, and I suspect that the temperature rose simply because the Speaker allowed the exhibit to get through rather than anything to do with the substance of the exchange. Let us remember that: no apples, no hamburgers, or anything else.

The hon. Member for Red Deer-South.

## National Pharmacare Program Proposal

MR. DOERKSEN: Thank you, Mr. Speaker. There have been recent reports that the federal government has plans to institute a national pharmacare program. While they are vague as to the cost of such a program, there is little doubt that the cost could be substantial and could be a huge impact to the province of Alberta. My questions are to the Minister of Health. Can the minister please advise the Assembly what this program is?

MR. JONSON: Mr. Speaker, the proposal that has been referenced by the federal Minister of Health emanates from a report of the national forum commissioned by the federal government to report to the federal government on future directions in health and the needs of the system. In their final report, which was presented in February of this year, they indicated overall that there was in general enough funding within the system, but they did identify two or three key needs. One was with respect to long-term care, another in the whole area of information and data for the system. A key one was a proposal that there be a national pharmacare program which, as simply defined as I can make it, would involve public funding for all medically required drugs in Canada.

MR. DOERKSEN: To the same minister: what are the minister and his officials doing in response to this federal initiative?

MR. JONSON: Well, Mr. Speaker, there is at this moment in time some difficulty being able to say that we are doing or accomplishing anything in a concrete way. We are gathering information on other pharmacare programs in other countries. We are trying to prepare a good information base so that we can enter discussions both at the federal level and at the ministerial level in the coming months on this particular initiative. What we really need to know and what we will try and obtain as quickly as possible is more detail with respect to what the federal government's intentions are, particularly on a very, very key matter, and that is the overall commitment that the federal government is prepared to make monetarily to support their initiative.

MR. DOERKSEN: Mr. Minister, what will be the impact on Alberta? Will it have cost implications?

MR. JONSON: Mr. Speaker, currently Alberta compares quite favourably across Canada with the government-assisted drug programs that we have, but certainly if that definition is to be completely fulfilled, it involves a substantial cost to any province entering into the program. So we really need to work on this particular matter. We need to ascertain if the federal government is prepared to come forth with the required funding, because it is potentially very, very substantial. We need to know, now that the minister also announced that the major reductions in transfer payments seem to have concluded as far as the federal government is concerned, whether they are prepared to put back substantial amounts of money to help with this program nationally.

### River Water Quality

MS CARLSON: Mr. Speaker, the surface water quality index in Alberta provides an indication of river quality upstream and downstream of major Alberta centres. The indicators used are good, fair, poor, and not acceptable water quality. Of the six locations measured, the water is not acceptable for recreational purposes on four major rivers downstream of Edmonton, Red Deer, Calgary, and Lethbridge. These levels have not been acceptable since 1993, when according to the minister's own reports the last testing was done. To the Minister of Environment Protection: why hasn't the department monitored the water quality since 1993, when the levels were found to be unacceptable? Is your department afraid of what the results will be?

MR. LUND: There is monitoring continuing. While it was not in the report that the hon. member speaks of, in our measuring in the department you will find results of the water quality in the province of Alberta.

MS CARLSON: Nineteen ninety-three, Mr. Minister.

Why does the business plan not contain specific programs for improving the water quality below these cities? Setting a target is not good enough. We need concrete action in this area.

MR. LUND: As the hon. member identified, it's downstream from the major cities within the province of Alberta, and there is work being done on upgrading the sewage systems within those jurisdictions.

MS CARLSON: That's still no answer.

Why is the Water Act, which addresses some of these concerns, still not being proclaimed in this province, Mr. Minister?

MR. LUND: For the benefit of the hon. member, the new Water Act deals with things like quantity in the rivers. The quality of the water in the rivers is dealt with in the Environmental Protection and Enhancement Act.

THE SPEAKER: The hon. Member for Calgary-North Hill, followed by the hon. Member for Lethbridge-East.

### Education Tax

MR. MAGNUS: Thank you, Mr. Speaker. Recognizing a firm hand in the Chair, no preamble whatsoever. To the Minister of Municipal Affairs: can the minister explain why the education tax requisition from the province for the city of Calgary is up $18 million?

MS EVANS: Mr. Speaker, Alberta Education submits to Municipal Affairs the total amount of the requisition to be collected through the property tax system. For 1997 the amount to be collected throughout the province is $1.389 billion. Municipal Affairs receives property assessment information from municipalities and, to assure a fair and equitable distribution of the education tax, all assessment information is adjusted to a common 1997 level. The mill rate to allocate the requisition to municipalities is calculated and then applied to each municipality to determine the individual municipal requisitions.

Mr. Speaker, clearly Municipal Affairs is responsible to use the best information available to provide fair valuation of assessment and a level playing field for taxation. Municipal Affairs is then responsible to assess and submit values, which become the basis for the tax that is calculated at the city.

*2:20*

MR. MAGNUS: Thank you, Mr. Speaker. I have to go back at this just a bit. I'm curious if the same minister is saying that Calgary is growing faster than other municipalities in the province and that is the only reason this $18 million addition is tacked on.

MS EVANS: Mr. Speaker, Calgary is indeed growing fast. It is growing faster to the tune of moving from a 24.82 percent calculation for education requisition in 1995 to 26.57 percent. That's based on growth in construction, and it's based on growth in the values in the property itself. I might add, however, that Grande Prairie and Canmore are two communities that are similarly incurring significant growth.

MR. MAGNUS: Thank you, Mr. Speaker. My second supplementary is to the Minister of Education. Why is it that the municipal government and the provincial government are involved in the collection of local education property taxes, and is there an alternative system in another jurisdiction anywhere in North America that uses a system other than property tax to fund education?

MR. MAR: At the outset I first want to say that I wish to forfend, that is to say protect, the Education budget from any further reduction. But having said that, Mr. Speaker, education in this province has long been supported through property taxes, since before the time that Alberta entered into Confederation.

Prior to 1994 school boards requisitioned property taxes directly from municipalities. Under that system the education funding that was available for students largely depended upon the wealth of the particular jurisdiction. In some cases that resulted in discrepancies, differences in education funding levels of up to $19,000 per student per year. That system was not fair. With the introduction of full provincial funding, property taxes in this province are now distributed per student, on a per student basis.

With respect to the portion of the question as asked by the member with respect to alternative ways of funding education, the mayor of Calgary has suggested entertaining a look at what has been done in Ontario, which is to say a movement of municipalities into a number of provincial areas of funding jurisdiction and the province vacating education funding areas from property taxes. Mr. Speaker, I wish to point out that prior to full provincial funding in 1994 there were increases for a period of 10 years on the education tax portion. Since full provincial funding in 1994 the education tax rate has been reduced for four years in a row.

THE SPEAKER: The hon. Member for Lethbridge-East, followed by the hon. Member for Livingstone-Macleod.

### Municipal Taxation

DR. NICOL: Thank you, Mr. Speaker. The Municipal Government Act sets out different taxation and revenue generation options for rural and urban municipalities. A number of rural councillors have asked me why they do not have the same flexibility that is available for their urban counterpart municipalities. So on behalf of these councillors I'd now like to place that same question to the Municipal Affairs minister. Why is it that they do not have the same flexibility as urban municipalities?

MS EVANS: Mr. Speaker, I'd ask for clarification of the question. Due to the hon. member's receipt of a gift from the opposition, I missed the start of the question.

THE SPEAKER: A highly unusual request, hon. member. Would you rephrase your question?

DR. NICOL: Thank you, Mr. Speaker. It wasn't my gift.

There's a concern by rural municipalities that they do not have the same flexibility to deal with taxation and revenue generation as their urban counterparts. They would like to see the Municipal Government Act changed so that they have the same options, the same flexibility to generate revenues that are available for cities and towns.

MS EVANS: Mr. Speaker, there would be a fairly detailed response to that question. I'd be pleased to take it under advisement.

May I say this? There's absolutely nothing in the Act that I'm aware of that would mitigate against revenue generation from rural municipalities, nor does it mitigate against revenue sharing with urban municipalities. There is a history and a tradition in Alberta of urban municipalities being able to generate more revenues, but I see no conflict for rurals.

DR. NICOL: Mr. Speaker, again to the Municipal Affairs minister. Basically, they want to know why they don't have the same option in terms of property tax, in terms of other revenue generation to define their base the same way that urban municipalities have of defining their base. They're restricted in how they deal with the definition of what constitutes property, what constitutes valuation methods. They want to know why they can't have the same.

MS EVANS: Well, Mr. Speaker, there are both regulated and nonregulated assessments in this province. Predominantly those municipalities that have machinery and equipment, for example, are regulated at forms of assessment and are conducted quite differently.

If the hon. member is asking about rural generation of taxation or that sort of methodology, that does happen pending the configuration of the municipality itself. If the member could be quite a lot more specific, I'd endeavour to answer the question.

THE SPEAKER: The hon. Member for Livingstone-Macleod, followed by the hon. Member for Edmonton-Glenora.

DR. NICOL: One more supplementary.

THE SPEAKER: If we have the questions through the Chair.

Hon. member, you . . .

DR. NICOL: One more supplementary, please.

THE SPEAKER: Well, we had that sort of exchange, and then some fruit got transferred, so I don't . . .

DR. NICOL: It wasn't my fault, Mr. Speaker.

THE SPEAKER: Okay. It isn't your fault.

DR. NICOL: Thank you, Mr. Speaker. One of the options that some of the rural municipalities have proposed is the introduction of a business licence for on-farm businesses and for livestock operations. The former minister had asked that to be put on hold until reviews could be conducted. Could you inform the agriculture community right now: what is the status of this option for rural municipalities to introduce business licences targeted at livestock operations?

MS EVANS: Mr. Speaker, I'm well aware of the farm assessment review committee, and I'm well aware of the polarization of two approaches at that committee level. I would submit that perhaps if the hon. member is asking us for farm market value assessment methodology, that clarification be given. We are working on both the farm and the industrial assessment review, and we are in a heavy consultative process. I'd be pleased to receive any suggestions.

THE SPEAKER: The hon. Member for Livingstone-Macleod, followed by the hon. Member for Edmonton-Glenora.

### Municipal Recreation/Tourism Areas

MR. COUTTS: Thank you, Mr. Speaker. I have long been a supporter of the municipal recreation and tourism area program. Like many of my constituents I was concerned about whether this program would be sustained at the time of government spending reductions since those reductions affected the grooming of 1,200 miles of snowmobile trails in the Crowsnest Pass area. My question today is for the Minister of Community Development. I see in your new business plan that this program, once destined to be phased out, is now slated to be retained. This is good news for Albertans. Can the minister please explain why the program is being retained?

MRS. McCLELLAN: Mr. Speaker, I too am certainly a supporter of the municipal recreation/tourism areas in the province. They really play a big contribution to the quality of life in this province. There are two reasons why this program is being retained. First of all, this government listens. In discussions with our municipalities as stakeholders they indicated to us through this minister and through other ministers that this program was important to them and that there was a need to retain it.

The second reason is that in the preliminary work of the active living strategy committee it is strongly suggested that providing recreational opportunities to Alberta's population will certainly aid in keeping Albertans fit and healthy. By being able to provide these areas, we can promote active lifestyles.

I want to just mention about three of the areas to refresh members' memories. There's a George Pegg Botanic Garden,

that's just out of Edmonton. The Pass Powder Keg ski hill near Pincher Creek, which I'm sure the hon. Member for Livingstone-Macleod is familiar with. There's a Lakeshore park in Lake Chipewyan and the Peerless Lake recreational area. Those are just a small sample, Mr. Speaker, from across this province that benefit from that program.

*2:30*

MR. COUTTS: Thank you, Mr. Speaker. To the same minister: what will be the funding for the program in 1997-98, and how will this funding be made available to the communities?

MRS. McCLELLAN: Mr. Speaker, this year's funding for the program will be maintained at $1.5 million. That is 40 percent of the original commitment, which is the commitment we have to retain the program at. This year it will be partially funded by the Community Development department and partially funded by the Alberta Sport, Recreation, Parks and Wildlife Foundation.

In the future years, Mr. Speaker, I am pleased to say that the Alberta Sport, Recreation, Parks and Wildlife Foundation have offered to take this program under their mandate, and they will continue to fund it through the foundation.

MR. COUTTS: Thank you, Madam Minister, for that.

Given that this program will be $1.5 million lower than it was in previous years, can you explain, even though you talked about a mechanism for the money to come through, how the program will be maintained with that amount of funding?

MRS. McCLELLAN: Mr. Speaker, in my discussions and advice that I've received from other ministers and MLAs, it was suggested that this amount of funding would sustain the program. I should point out that our municipalities and our nonprofit organizations and stakeholder groups are very innovative and very judicious and prudent in the expenditure of these funds. They understand the need for fiscal responsibility, and they have suggested that they will be able to maintain these wonderful areas in our province at that level of support of funding from this government.

THE SPEAKER: The hon. Minister of Family and Social Services wishes to supplement an answer given earlier during Oral Question Period.

Hon. minister.

### Safeway Labour Dispute
*(continued)*

DR. OBERG: Thank you very much, Mr. Speaker. I'd just like to clarify an issue on the Safeway voucher question that was asked of me. The Department of Family and Social Services makes out the vouchers to whomever the client wishes. So in keeping neutral in the labour dispute, they will only make out the vouchers to whomever the client asks them to be made out to.

Thank you.

THE SPEAKER: Prior to proceeding with the Standing Order 40 request, might we just revert briefly to Introduction of Guests?

HON. MEMBERS: Agreed.

THE SPEAKER: Minister of agriculture.

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

MR. STELMACH: Thank you, Mr. Speaker. It's a real pleasure this afternoon to introduce to you and through you to the Members of the Legislative Assembly a group of directors of the Western Canadian Wheat Growers Association who are visiting the Legislature today. They are seated in the members' gallery, and I would ask that they rise: Mr. Larry Maquire, the chairman; Mr. Dan Hochhausen; Mr. Leo Meyer; Mr. Glenn Sawyer; Ms Sharon McKinnon; and a young future director as well. I wish that they rise and receive the traditional warm welcome.

## head: Motions under Standing Order 40

### Earth School Status

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

Ms Carlson:
Be it resolved that this Assembly congratulate Rio Terrace elementary school for being the third school in Edmonton and the 15th school in the province to achieve Earth school status.

MS CARLSON: Thank you, Mr. Speaker, it gives me great pleasure to stand here and speak to the urgency of Standing Order 40. On Earth Day, April 22, 1997, Rio Terrace elementary school was proclaimed an Earth school. This is an amazing accomplishment for Principal Julia Elaschuk, her staff, and her 350 young students. To be the third school in Edmonton and the 15th in the province to receive this status speaks to their dedication to protecting this province and ensuring that we are all committed to an environmentally friendly future.

Rio Terrace registered in the society, environment, and energy development studies, or SEEDS, program, in September of 1991. By April 1992 they achieved Green school status by completing 100 environmental projects. In April 1995 they achieved Jade school status by completing 250 environmental projects.

THE SPEAKER: The hon. Government House Leader.

MR. HAVELOCK: Yes. Point of order, Mr. Speaker. I'm . . .

THE SPEAKER: Okay. Fine. That's good. We'll deal with it after.

MS CARLSON: In April 1996 they achieved Emerald school status by completing 500 environmental projects. Yesterday they achieved Earth school status by completing 1,000 environmental projects that met the demanding criteria of the SEEDS Foundation.

Mr. Speaker, the Minister of Education today sent them a letter congratulating them . . .

THE SPEAKER: Thank you very much, hon. member. Please. Urgency. Urgency. Urgency.

MS CARLSON: The urgency of this matter, Mr. Speaker, is that this is the very first available opportunity for Members of this Legislative Assembly to congratulate this school. It isn't enough that a minister sends a letter. That minister does not and in fact cannot speak on behalf of all of the private members in this Assembly.

This is the only manner in which all of us have an opportunity

to congratulate this school and the other schools, like the Member for St. Albert's school that is also getting this award on June 5, and recognize the significant achievement that these young people have contributed to this province as a whole. I think it behooves all of us to address this issue, to speak to the urgency of it, and to compliment them and congratulate them for an award that is very, very well deserved and that they worked for years to achieve.

THE SPEAKER: We actually have two points of order, and the Government House Leader's point of order is second to it.

Opposition House Leader, your point of order is not on this subject matter I gather, so we'll deal with it secondly.

Government House Leader, is your point of order on the Standing Order 40?

**Point of Order**
**Urgency**

MR. HAVELOCK: Yes. Thank you, Mr. Speaker. I would like to direct the House's attention to Standing Order 40, which states specifically:

> A motion may, in case of urgent and pressing necessity previously explained by the mover, be made by unanimous consent of the Assembly.

Mr. Speaker, what we heard today was simply a lengthy introduction. It sounded to me like the member was actually already debating the motion and putting forth her comments and her position without in fact having had the vote with respect to the urgency of the matter.

I don't believe it's a sense of urgency for a member to be able to personalize their congratulations through the House to a particular institution or school or individual. For that reason, Mr. Speaker, one, I think in the future we need to ensure that these matters are truly urgent and, secondly, that when they are tabled and put forward and moved, the mover actually addresses the issue of urgency

THE SPEAKER: The Opposition House Leader.

MR. SAPERS: Thank you, Mr. Speaker. On the alleged point of order, Standing Order 40 doesn't stand alone of course in Standing Orders. The other parts of Standing Orders outline the process of debate, and it's quite specific that a private member has an opportunity to speak for 20 minutes on a motion under Standing Order 40 in order to develop the theme of urgency. Sometimes it takes a little while longer than other times to convince all members of the Assembly to do the right thing. It's not simply a matter of standing up and asking for unanimous consent. We've certainly seen that, Mr. Speaker.

The government seems somehow hesitant to allow the Assembly to express its unanimous approval of an extraordinary act such as the one being suggested by my colleague. In fact, Mr. Speaker, the Government House Leader's argument absolutely makes the contrary point. He alluded to the fact that members on this side of the House are trying to personalize their congratulations. It is exactly the opposite intent. What we are trying to do is make them nonpartisan and make them statements of congratulations from the entire Assembly as opposed to just from a minister of the Crown.

So I thank the Government House Leader for making that argument, because I could barely have made the point better myself why it is that we must take the opportunity under Standing Order 40 to recognize in a nonpartisan way the actions and accomplishments of extraordinary Albertans.

THE SPEAKER: The reality is that there was an interjection by the Chair in terms of brevity with respect to urgency. The Government House Leader rose on a point of order on urgency. The Opposition House Leader rose and indicated that a member would have up to 20 minutes. That would only be provided should the following question be answered in the majority.

The question now under Standing Order 40 is the following: might we have unanimous consent to proceed with the motion as proposed by the hon. Member for Edmonton-Ellerslie?

SOME HON. MEMBERS: Agreed.

THE SPEAKER: Opposed?

SOME HON. MEMBERS: No.

THE SPEAKER: It's defeated.

Point of order, Opposition House Leader.

**Point of Order**
**Reflections on the Assembly**

MR. SAPERS: Mr. Speaker, thank you. In many regards this is an extension of the same point. I'm going to quote for you from pages 124, 125 of *Erskine May* under the heading "Other indignities offered to either House." I'm making reference to an answer provided by the Premier in response to a question put by the Leader of the Official Opposition, at which point the Premier uttered words to the effect that the Progressive Conservative Party is the government.

***2:40***

Mr. Speaker, *Erskine May* reads in part:

> Other acts besides words spoken or writings published reflecting upon either House or its proceedings which, though they do not tend directly to obstruct or impede either House in the performance of its functions, yet have a tendency to produce this result indirectly by bringing such House into odium, contempt or ridicule or by lowering its authority may constitute contempts.

I submit that the Premier's rather odious abuse of power in confusing the difference between the Progressive Conservative Party and the government of Alberta brings this House into such contempt. We have long seen how the government tends to blur the lines between its role and ability to govern the province and to bring forward policy and Bills in this Assembly and the role of any political party.

Mr. Speaker, it has long been a tradition of parliaments around the world that partisanship stays outside the doors of the Chamber and that in fact you have the executive committee and then you have private members. In making the statement that he did in question period, the Premier only underlines that this government is developing total contempt for the parliamentary process and for free and democratic debate. There is a certain arrogance attached to a government that confuses its sponsoring political party with its own role as a government in the right of the Crown.

Mr. Speaker, this should be brought to an immediate stop. The Premier should be reminded that he is the Premier of all the people of the province, even those 49 percent of the people of the province that didn't vote for his political party, and that he has an obligation to respect the rights and responsibilities of all private members, not just those who happen to join his party for whatever reasons they did so. I suggest that this is a very serious point of order. In fact, the Government House Leader's arguments in the previous discussion on the Standing Order 40 are an indication of just how deep seated this arrogance and contempt for democracy has become in this Chamber.

MR. HAVELOCK: Well, Mr. Speaker, I was listening quite closely to what the Premier had to say. It is true that the Premier indicated that the Progressive Conservative Party is the government. I think the simple point he was trying to make is that the majority of the members elected in this House in the election happened to be running for the Progressive Conservative Party, and as the majority of the members here come from that party, I don't think it's too much of a leap to suggest that the Progressive Conservative Party formed the government.

Now, with respect to being nonpartisan, Mr. Speaker, I would suggest that the hon. Leader of the Opposition and the Opposition House Leader practise what they preach. If they wish us to pursue this vigorously, then I would expect that any news releases they issue in the future will simply state on them "opposition" as opposed to having any reference to the Liberal Party. [interjections]

THE SPEAKER: Hon. members, please.

*Beauchesne* is fascinating reading, and I would really draw it to everyone's attention. The sixth edition is perhaps one of the best. Now, as I understand this point of order which has been raised by the Opposition House Leader, it comes in response to a question that was raised by the hon. Leader of the Official Opposition about the Ethics Commissioner's report. The hon. the Premier did indicate that the Progressive Conservative Party was the government. I would like to point out, however, that the Chair showed some leniency with respect to the question by the hon. Leader of the Official Opposition as he essentially asked for the Premier's opinion on a matter, and secondly, the hon. Leader of the Opposition referred to the Progressive Conservative Party.

Now, if one wants to read *Beauchesne*, 409(11) clearly prohibits the seeking of opinion. Secondly, *Beauchesne* 410(17) clearly prohibits questions "with respect to party responsibilities." It's clear to the Chair that the Progressive Conservative members do form the government, and the Chair would argue in response to the point of order that the door to this point of order was in fact opened by the Leader of the Official Opposition. There is no point of order.

## head: Orders of the Day

## head: Written Questions

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

[Motion carried]

## head: Motions for Returns

MR. HANCOCK: Mr. Speaker, I also move that the motions for returns appearing on today's Order Paper stand and retain their places.

[Motion carried]

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

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

### Bill 202
### Crown Contracts Dispute Resolution Act

[Debate adjourned April 22: Mr. Jacques speaking]

MR. JACQUES: Thank you, Mr. Speaker. It's my pleasure to rise and continue my opening comments in debate with regard to Bill 202. I know that people were riveted by the remarks that were being delivered yesterday and particularly at the point when I had to adjourn those comments with regard to some of the history involving ADR. I was speaking specifically with regard to what occurred in the 1960s in the United States and what was at that time a lot of internal conflict and certainly a marked increase in legislation. Those problems, when combined, saw that the court system was inundated with litigants seeking court guidance in regards to personal rights and dispute resolution, and concerns about court congestion, excessive litigation, delays, and rising legal costs certainly spurred the ADR movement.

Although we in Canada face the problems of congestion, delays, and rising legal fees in our legal system, they have not been on the same scale as in the United States. Indeed our system can be said to be in better shape than our American counterparts'. However, with the guidance provided by U.S. initiatives, Canada has openly accepted the concept of ADR, which has led to a significant increase of ADR over the past 10 years. In addition to fighting increased legal costs, delays, and congestion, the ADR experience in Canada is growing because of international commercial businesses operating in Canada and their related expectations that ADR is virtually automatic when contract disputes arise. Certainly the fact that ADR is seen to improve relations between participants has greatly increased the use of it in Canada.

Mr. Speaker, Alberta is not the only province looking at ADR. Indeed in December of 1994 the government of Saskatchewan amended the Queen's Bench Act to provide for mediation. The Saskatchewan legislation is not unlike Bill 202 except that it covers all contracts whether the provincial government is involved or not. The Saskatchewan Act was originally set out as a one-year pilot project that would monitor and enforce mediation in only two cities: Regina and Swift Current. The project continues to evolve, and as such the time line has been extended indefinitely. The province's mediation services department is currently looking at expanding the project to include Saskatoon.

Essentially the Saskatchewan Act compels parties in a contractual dispute to attend a mediation session to inform them of ADR prior to going to court. As with Bill 202 any evidence that is tabled in the session is not admissible in a court of law. If a party does not attend the session, the court may order their attendance at a session or some other remedy it deems fit. Nothing in the Saskatchewan legislation disallows a party to continue with their legal action.

***2:50***

The Saskatchewan Act originally received complaints from lawyers trying contractual cases as they felt it was just one more step in the legal process. However, after three years of participating in the project, the lawyers involved in contractual disputes now feel that mediation is effective and is working well in both cities. They view it as another option to court rather than just one more step to begin legal proceedings. As the Saskatchewan mediation services department monitors current litigation in Saskatoon, it is finding that claim settlements are taking from between six and nine months longer in Saskatoon, where they do not have mandatory mediation, as compared to either Swift Current or Regina.

We can gauge the effect that mediation would have in Alberta if we look at those results. As Bill 202 is based on the 1994 legislation in Saskatchewan, we can expect a similar reduction in court times, court fees, and a better working relationship for all

parties involved in a dispute.

It should be noted, Mr. Speaker, that one of the mandates of the established Industry/Government Standing Committee on construction contracts is to review processes for alternative dispute resolution that would be appropriate for government construction contracts, and there are certainly some government contracts today within the province that do indeed have ADR provisions. This has only been a piecemeal approach. Legislating ADR for government contracts would ensure that parties entering into a contract with the government would know prior to signing that there would be no ifs, ands, or buts when it came to ADR. If there was a problem, it would be handled in a manner that would be fair and equitable to everyone involved.

Mr. Speaker, there has been some suggestion that a general policy directive can accomplish the same as Bill 202. However, it has not been proven in any jurisdiction that just a policy directive has been effective. I believe we need a firm commitment to ADR, and that can only occur through the appropriate legislation that is applicable to government contracts. I urge all members to join me in supporting Bill 202, and I look forward to the ensuing debate.

Thank you, Mr. Speaker.

MS OLSEN: I understand the intent of Bill 202 and appreciate the fact that alternative dispute resolution may in fact reduce the backlogs in the courts. This is an issue that's very close to my heart, having sat for numerous hours in a courtroom waiting to testify when 13 hours of trial time has been set down in two hours. However, I oppose this Bill in principle just because I do not believe that this Bill serves the citizens of the province well by closing the door to a process that we all rely on when we believe we've been wronged. The way this Bill is written could stall the court process by up to almost four months. This might be okay for the government with all its resources, but it could create a great hardship for a smaller company.

I believe in alternative dispute resolution and have used community mediation as a result of neighbourhood disputes that I've investigated as a police officer. However, I find it difficult to believe that legislated mediation can be anything but adversarial. Therefore a person may just as well proceed to the courts. Most mediators believe this process works best when there is not a power imbalance. I put to the hon. member introducing this Bill that being forced into dispute resolution with the government through their own legislation may appear to be strong-arming the small contractors.

I must also draw attention to comments from the Minister of Labour quoted in the *Edmonton Journal* on April 17, 1997. This is when he was asked if he would force Safeway to be mediated in their strike. He stated: there is very little power that a government minister could exercise to force people to talk to each other. This indicates that at least one minister doesn't support the principles of this Bill.

A further issue is that the Bill requires all parties to share in the costs of mediation equally. Again, this could be very unfair when you consider that one party is the Crown, with huge resources, and the other party may be a small contractor. When the court process is used, generally the unsuccessful party is assessed costs. In the case of a small contractor successful litigation would see the business reimbursed for some of the costs incurred, whereas in mediation even if they settle in favour of the contractor, he is still out the cost of mediation.

The Bill does not address whether mediation will be available in all jurisdictions. If it is not, then the matter of fairness arises. What about the smaller areas, possibly in High Level or in the south in the Brooks area, where contractors may have to travel and may have dates that are set further down the road than possibly a court date would be? If it is taken into consideration, how long will it take for the remote areas to become involved in the process? This also creates another level of bureaucratic proceedings before the dispute may be settled.

In closing, Mr. Speaker, I believe the government and the parties involved in a contract would be better served by both parties agreeing to write the mediation process into the contract as the first choice for dispute resolution, not forced mediation. That appears to be only in the best interests of this government.

Thank you, Mr. Speaker.

THE SPEAKER: The hon. Member for Calgary-Mountain View.

MR. HLADY: Well, thank you, Mr. Speaker. It is my pleasure to rise and enter the debate today on Bill 202, the Crown Contracts Dispute Resolution Act, as sponsored by the Member for Grande Prairie-Wapiti. Mr. Speaker, the fact about contract disputes is that not all are avoidable. In an endeavour to be proactive in reducing the numbers of disputes that reach a legal stage, you can develop conflict management programs to improve the likelihood of contract dispute resolution. One of the most effective techniques is that of alternative dispute resolution. Bill 202 addresses this by way of adopting ADR for use in some government contracts.

If one reflects upon the emphasis on the link between communications and conflict, it can be seen why the future of conflict resolution rests with ADR, not under the authority of the courts. A conflict is often initiated when there is a breakdown in communication, and it is a process such as ADR which can re-establish constructive communications. When the lines of communication are open between disputing parties, it can be assumed that they will work together to create a mutually acceptable agreement in regards to the conflict. Dealing with problems internally rather than involving the court system has its advantages. When the courts are not involved, there is a freer exchange of information and a cost saving for all involved.

Alternative dispute resolution is not a new concept. In fact, there are some government ministries which currently have clauses relating to the forum for dispute resolution, but as I said, only some ministries. The need for ADR to be legislated into government contracts is the simple fact of a level playing field, the ability for all parties, including the government, private firms, and individuals, who enter into mutual contracts to know from the outset that if there is a breakdown in communication that leads to a dispute, then there is a means to begin communications anew rather than relying upon the justice system to fix all the problems.

One must take responsibility for their actions, and a very effective way to ensure that this occurs is through the Crown Contracts Dispute Resolution Act. ADR has been touted as a creative way to achieve several objectives, including accessibility to justice and reducing court congestion, court costs. Despite these obvious advantages ADR has not received wide acceptance, and formal mechanisms to incorporate ADR into our justice system have been absent.

Bill 202 would reverse that trend and bring ADR into the mainstream of our Alberta justice system, and it would do so in a prudent fashion which allows time for parties to adapt to new ways of conducting their legal affairs. By having the Bill apply

only to certain government contract disputes, it formally introduces ADR into our justice system with little disruption. The hope is that if the legislation brings about the benefits I just mentioned, perhaps it may be broadened and become a much larger part of our justice system in an effective way.

The proposed Bill is based upon one of the only pieces of legislation regarding ADR in Canada, which is found in Saskatchewan. In 1994 the province of Saskatchewan amended its legislation in regards to the Queen's Bench Act to provide for mediation. Under a one-year pilot project involving the cities of Regina and Swift Current, legislation was changed such that the parties involved in contract disputes in both family and civil law were forced to attend a mediation session. This mediation session was used to explain to the participants in the action what other options they had in addition to going to court. The legislation was accepted into the legal process with much opposition from local attorneys who practise law in these forms. Now, some three years after the project was initiated, the scope and attitude regarding the legislation has changed. Currently only civil, non family law is affected by the legislation. Family law, which is no longer covered, now provides for voluntary access to mediation sessions to discuss options rather than legal recourse.

*3:00*

As with the change to which forms of law would be affected by the legislation, there was a change in attitude towards the use of mediation as a reliable dispute mechanism. Six months to one year after the pilot project was started, lawyers were using the mediation sessions as a productive step in resolving conflict, not just making an appearance at the session and then proceeding directly to trial without giving ADR a chance. Saskatchewan mediation services estimates that only 20 percent of civil cases in Regina now go to court, with legislated mediation taking place. The success of the project in Regina and Swift Current has led mediation services to review the prospect of expanding the scope of the project to include Saskatoon.

Mr. Speaker, the successful Saskatchewan project speaks volumes for ADR and its effectiveness in contract disputes. Here in Alberta we would be missing a viable technique to reduce the pressure upon the Alberta justice system if it does not adopt Bill 202. ADR is the wave of the future. Many American states already have it, and many provinces are looking to implement it in some form soon. Alberta should take the lead, as it does in so many other things, and pass Bill 202.

Similar to courts across Canada the courts in Alberta are starting to become backlogged, and legal fees are rising. Although that might be beneficial to some individuals, to the majority of Albertans it is quite costly both in terms of legal fees and taxpayer dollars. In addition, the time and money needed to fight a court case can often be highly prohibitive. This is because lawyers, technical experts and the like are needed to make your case in court. You are often a bystander in your own proceeding. The complexity of the Rules of Court and legal jargon necessitates that you have these people on your side or you may be greatly unprepared for a legal battle, and unpreparedness for hearings certainly increases the likelihood you will not win the case. There needs to be a justice system that is accessible and usable by all Albertans, not just the highly trained. ADR represents one facet of justice that everyone can be comfortable using.

Many groups have asked for legislation or a formal way to have ADR in our justice system, but they have often faced entrenched opposition to this change. To be honest, in Alberta we need to catch up to the private sector in initiatives. Our private sector has been highly involved with ADR for a number of years. In 1995 the Canadian forum on dispute resolution met in Edmonton, where this 200-plus group discussed the future of ADR in Canada. As a result of roundtable discussions, the group proposed some recommendations in regards to ADR. I feel it is important to share a few of these with the Assembly.

The first recommendation: to ensure that the quality of Canadian justice be acknowledged and enhanced through the design, development, and implementation of innovative, flexible, and accessible processes. They also recommended establishing a public education and awareness campaign to make the public aware of dispute resolution choices and to promote appropriate dispute resolution methods. These recommendations are very much in line with Bill 202, Mr. Speaker. The same group also made a recommendation that government lead by example by including ADR clauses in contracts and use ADR processes to resolve intergovernmental disputes and deal with public policy.

Mr. Speaker, Bill 202 will accomplish these recommendations in a manner equitable to all parties who may enter into a future contract with the government of Alberta. By voting for Bill 202 now, you will have taken a very important first step in assisting our justice system while at the same time saving the government and individuals money and time spent locked in legal battles that could be better resolved through ADR. I urge all members to fully support Bill 202.

Thank you, Mr. Speaker.

THE SPEAKER: The hon. Member for Calgary-Buffalo, followed by the hon. Member for Calgary-Glenmore.

MR. DICKSON: Thank you very much, Mr. Speaker. I'm delighted to join the debate on Bill 202. There are a number of observations I want to make. First, I'd make the observation that like all members, when we come into the House to speak on a Bill, we tend to reflect our own experiences and, I suppose, our own values and biases. Some of the filters through which I view the Bill are some experience practising law in the province and some experience as an accredited mediator. Also, I'd had the privilege of being Justice critic in the province for a period of time.

I think one of my first reactions is that we've heard a couple of really very different speeches here. We've heard the Member for Grande Prairie-Wapiti talking about the Bill. We've just finished listening to a speech that talked about ADR but really nothing about the Bill at all. In fact, many of the arguments that we just heard moments ago would be sound reasons to defeat Bill 202, but I'll come to those in a moment.

Mr. Speaker, in terms of the approach in this province I think what Bill 202 captures is a lament, a lament that in a province that we like to think of as progressive, on the forward edge of reform in all areas of endeavour, it's not the government of Alberta that comes forward and says we're embracing alternative dispute resolution; we have a private member's Bill that comes in, Bill 202. The closest connection we have to this being anything other than one member's frolic is the fact that the Minister of Justice graces us with his presence this afternoon. Maybe he'll engage in the debate before we get to a vote on principle. Where's the government initiative for ADR?

You know, we've had certainly the experience of watching Saskatchewan, where the provincial government and the Law Society in that province recognized that alternative dispute resolution can be a big advantage to the citizens in that province.

They came forward with a multifaceted program to give people information about how ADR works, to improve access to ADR. We've asked in this province for at least four years for the government of Alberta to take that kind of a proactive step. We weren't talking about legislating, imposing a rigid formula on people who have the misfortune of having a legal entanglement with the government of Alberta. We talked about how in positive, noncoercive ways we can promote alternative dispute resolution, whether it's arbitration or mediation. That is a positive thing, Member for Calgary-Mountain View. That is something we want to support. But Bill 202 doesn't do that.

In fact, where was the Department of Justice in this province when we talked about the multidoor courthouse concept that's been pioneered in Washington, D.C., when we talked about initiatives that we've seen in family law in Ontario and Manitoba? I mean, there have been plenty of examples in this province of noncoercive leadership initiatives from provincial governments that wanted to promote this and create an alternative to the civil litigation process. The provincial government in fact has done none of those things. The Law Reform Institute report has virtually been orphaned. It was done at least five, six, seven years ago. It came out with a list of things that the government of Alberta could and ought to do, and the government of Alberta has chosen to do none of them. So what we have instead is not a provincial government commitment in this province to ADR; what we have is Bill 202. Let's spend a little time looking at what's in the four corners of Bill 202.

Just before doing that, I'd make the observation to the Member for Calgary-Mountain View: you know, mediation isn't always cheaper. In my experience in terms of doing mediation in family law situations, sometimes you get a much more efficient, speedier, and cheaper remedy from a chambers judge in the Court of Queen's Bench than you do going through 12 agonizing, tortuous mediation sessions. Although it has many advantages, it's not the answer in every case.

THE SPEAKER: Hon. member.

### Point of Order
### Questioning a Member

MR. HLADY: Yes. Mr. Speaker, I was just wondering if the member would entertain a question.

MR. DICKSON: Of course. I'd always entertain a question from the member opposite, Mr. Speaker.

### *3:10* Debate Continued

THE SPEAKER: The hon. Member for Calgary-Mountain View.

MR. HLADY: Thank you, Mr. Speaker. I'm just wondering why you say it's sometimes more expensive. Would you not admit that it is seldom more expensive than going through our justice system?

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

MR. DICKSON: Thanks very much, Mr. Speaker. The point is this: mediation isn't the panacea. The point is that mediation may work in some cases. In many other cases the regular civil litigation route may be the best remedy. In some cases you may have a third alternative, which is a managed trial, where you actually have a judge who shepherds an action through from beginning to end. This would simply be one of a whole range of options. My point is just: let's not get so focused on ADR and certainly on Bill 202 that we think this is the only and best answer. I would say that alternative dispute resolution is simply one item that would be in an arsenal of tools in a civilized society to help people resolve their complaints.

The other point I want to make is this. When the Member for Calgary-Mountain View talked about entrenched opposition, the entrenched opposition in Alberta to ADR didn't come from the Law Society, didn't come from the Canadian Bar Association, didn't come from the Law Reform Institute. It came from the government of Alberta. I hope we'll see that all of that rhetoric we've heard about the wonders and attributes of ADR is going to be converted into pressure on the hon. Minister of Justice to require the government of Alberta to come in with a much broader approach to promoting ADR.

Anyway, on to Bill 202. I think the opposition Justice critic did an excellent job of highlighting some of the difficulties and problems with it. I want to touch on some of the things that give me difficulty with it.

For those members that remember the Opron case and for those who were not members of the House but may have read about it in the media, this was the case where after years and years of an action wending its way through the court system, we had the court determining that the government not only had been wrong but accusing the government of being deceitful, accusing the government of a host of unsavoury things. I think many of us thought that in a case like Opron this surely was a case where mediation would have been a wonderful option, because what it demonstrated was that in most cases when the Crown is the defendant and the plaintiff may be a small construction company, may be a small contractor, there's an enormous imbalance in power.

The problem with 202 is that to require both parties will favour the Crown, because in virtually every case the Crown is going to have the deeper pockets, is going to have the whole array of resources that only the government of Alberta has access to. Most other parties, most plaintiffs aren't going to be in that position. Something that would make more sense: maybe what we do is make it at the option of the other party in terms of whether the Crown is going to have to participate in a mediation session.

The other thing is that it's strangely selective. I want to know: is this going to apply to the Public Highways Development Act and claims made under that? When we look at section 2(2), we list some contracts to which the Act will not apply. So I think to myself of the kinds of actions that people typically bring against the government of Alberta. I'd like some explanation in terms of the Public Highways Development Act and particularly if you look at section 39(3). There are some unique provisions there. I want to know to what extent this would impact on that. Would it be intended to cover that?

What about the Public Works Act? Most of the claims I remember having against the provincial government arose from somebody supplying goods and services to the provincial government, and there you don't commence your action against the government of Alberta by way of a statement of claim, which is a condition precedent to being able to invoke the jurisdiction of this Act. What you do there is you file a claim in a prescribed form under the Public Works Act. Sections 13 to 19 set out a whole elaborate process in terms of how you get paid. So one would have to ask: if that, as I suspect, is where most claims against the Crown originate, particularly from smaller vendors and contractors, why wouldn't the Act apply to those people? Well,

it wouldn't under the straight wording of the Bill, because the Bill only applies in those cases where you start by way of a statement of claim. It would seem to me that that would be the logical place if you want to try and address a problem with people being bled or ground into the ground by the Department of Public Works, Supply and Services and needing some help. That would be one of the places, I would think, we would want to start.

What about the Frustrated Contracts Act? Section 1(b) of that Act means it applies also to contracts in which the government of Alberta is a contracting party. So would those actions be subject to this Act? I don't know, and I need some clarification.

What about the Expropriation Act? I'd like to know: would this Bill apply to that? Would it not? That's an area where we find tremendous imbalances between a large, powerful government on one hand and a small landowner or contractor. I'd like to know whether the Act would apply to that.

Once again, this Bill would have a perverse result. What it would do would be exaggerate the strength and the bargaining advantage of the government of Alberta and undercut and weaken the position of the claimant. Under this Bill, after there's a reply and joinder of issue or there's an implied joinder of issue, that's the close of pleadings. Then you wait up to 60 days before somebody can apply to name a mediator, and then there's another 60 days to wait in section 3(4) for the mediator to hold a mediation session.

Then we have something curious in Section 3(6).

> A mediation session may take place in an action involving more than 2 parties even though not all of the parties attend the session if the parties [that do attend] the session agree that the session should take place.

Certainly the Member for Calgary-Glenmore, who I expect has been involved in plenty of actions in which the provincial government was a party, will tell you that often you have third, fourth parties to an action. So under this Bill you could be in a situation where the plaintiff and a fourth party attend a meeting, the defendant isn't there, the government of Alberta isn't there, the third party isn't there, and the two of them say: well, we've decided this is going to be a mediation session within the meaning of the Bill. Well, that's a perverse result; isn't it? Yet that's what the Bills reads, and that's the result we would have. A fourth party who's got the most marginal interest in the action and maybe a negligible interest in the action and the outcome of the action is sitting there determining: yeah, that's fine; we've met this requirement, and we're all set to roll to the next stage. So it seems to me that that becomes a problem.

The Public Works Act also, sections 20 to 24. There's a whole other body of claims that can be made under those provisions, and it's not at all clear from section 2(2) whether those things are in or out, because ultimately what we've got is that the scope of the Act is going to be defined by regulation. We all know in this province that we're one of the few jurisdictions in all of Canada, indeed in all of North America where subordinate law-making, either orders in council, regulations, are never subject to any kind of all-party scrutiny. No scrutiny.

The Committee on Law and Regulations that we went through the process of appointing but a mere few days ago has never met in the province of Alberta for – the current Minister of Justice might refresh my memory. I think it's at least 10 or 12 years since that committee last met. So we have no all-party scrutiny of regulations.

What will happen if we pass this Bill as it stands, absent a commitment from the sponsor of the Bill that a draft set of regulations will be introduced in the House, circulated to all members before we're in a position of voting on the Bill – how could we possibly know what's in and what's out? It seems to me that's a pretty irresponsible way to go about making laws for our constituents and Alberta citizens.

*3:20*

Mr. Speaker, the Member for Calgary-Mountain View talked several times about improving accessibility. But that small contractor in Drumheller, Alberta, that had experience in terms of entering into some kind of a public works contract to grade a road or build a small bridge or do some minor project, who can't get money from the Department of Public Works, Supply and Services – do you think that fellow is going to be happy to discover that instead of simply going to court and commencing a statement of claim and then pressing for the earliest possible discovery date and then a trial, now he's lost control of part of the process? He and his lawyer have to sit there and twiddle their thumbs for perhaps, first, 60 days and then 60 days after that. At the end of the day that small contractor in Drumheller, who's been paying his lawyer to attend each one of the mediation sessions – we certainly know that the Department of Public Works, Supply and Services isn't going to come without a lawyer. They'll probably have three of them. I mean, that's the way government typically operates. So that small operator in Drumheller has just built probably another $4,000 or $5,000 into a solicitor/client legal bill, and that's all he's gotten in terms of the litigation. The action is at the close of pleadings. So instead of just having paid for a statement of claim, he's paid for perhaps a couple of mediation sessions.

So let's be honest with Albertans about the Bill. If we want to promote ADR, that's fine, and I expect members on this side will work as hard as we can with any member opposite and certainly the Minister of Justice to see what we can do in terms of promoting alternative dispute resolution, in terms of improving access of Albertans to the court system, which, after all, they pay for. That's the sort of thing that we can work on. Coming in with a prescriptive, arbitrary, highly selective kind of Bill seems to me to be absolutely the wrong way of doing it.

[Mrs. Gordon in the Chair]

So my suggestion to all hon. members is: let's harness that enthusiasm the Member for Calgary-Mountain View and the Member for Grande Prairie-Wapiti expressed for ADR. I expect it's shared by many of the rest of us in here. Let's take that sentiment and find ways of focusing it on constructive, positive, noncoercive kinds of solutions. I think members of my caucus would be interested in working to that very same extent, too, Madam Speaker.

I think that those are the primary points I wanted to make. ADR is wonderful; Bill 202 is not. I encourage all members to consider carefully before they decide how they're going to vote at second reading.

Thanks very much.

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

MR. STEVENS: Thank you, Madam Speaker. I rise today, obviously to the relief of my colleagues because on previous occasions I have not, to join in the debate on Bill 202, the Crown Contracts Dispute Resolution Act, as proposed by my colleague from Grande Prairie-Wapiti.

I'm encouraged to see this Bill being debated in the Assembly because I believe it deals with a timely issue and is one which deserves the attention of the Legislature. I'm also encouraged by the foresight of the hon. member in proposing this Bill, which addresses in a small but effective way some potentially real problems: problems such as those which have been experienced in the United States, Ontario, and British Columbia; problems like overcrowded court systems; skyrocketing legal costs; decreased accessibility to and an increasing frustration with the justice system. Problems such as these threaten the public trust in our court system. That's where Bill 202 comes in. This Bill targets those problems as they relate to government contracts, and it is in this context that I would like to address my remarks this afternoon.

As a trial lawyer for 22 years and a mediator for six I can speak personally to the challenges of the court-based resolution and the benefits of alternative dispute resolution, or ADR. ADR is often credited with achieving savings for the parties to a dispute, and under the mediation package as proposed by Bill 202, these savings will occur. Instead of going immediately through a judicial proceeding, a dispute will be mediated, which will result in savings for both the government and the parties. This saving will, I believe, Madam Speaker, come in two very important forms. The first is a monetary saving, the second a time saving. ADR has savings benefits that will be quickly realized for all parties involved in the mediation sessions as outlined in this Bill.

We can, Madam Speaker, assume that the cost of going through a mediation session, where the parties resolve the dispute, will be far less than going through a long, drawn-out court trial. Even in those cases where mediation does not resolve the dispute completely, the issues will often be defined, and the streamlined court case will take less time to try. Evidence which was given to an Ontario ADR task force showed that programs which required litigants to participate in ADR worked well. As it has been said here today, the cities participating in the Saskatchewan pilot project that mandated mediation see an average of 20 percent of litigants going to court after the mediation session as compared to 40 percent in cities that currently do not have ADR mandated. That's a 50 percent drop in the number of disputes that go to trial, and that is a compelling statistic. Time saved is also an ADR advantage. Where the parties choose to litigate, crowded court calendars, procedural motions, document production, and examinations for discovery delay timely resolution of disputes.

Another ADR advantage compared to traditional court proceedings is that it maintains privacy. The court system is a forum of public record. Documents and transcripts are filed, decisions are published, and all are available for public view. In certain cases the litigation system has the effect of forcing the disclosure of information which some of the parties do not want a matter of public record. This often results in extensive procedural wrangling to prevent disclosure of such information. Examples that come to mind are trade secrets and proprietary information. ADR maintains privacy of the parties, because the information given during the mediation process is confidential and does not become part of the public record.

Another distinct ADR advantage is the potential to choose a mediator who has specialized knowledge matching technical issues in a given case. The persons with specialized knowledge can easily be chosen by the parties to mediate a case where that knowledge will enhance the chance of conflict resolution. Such is not so when a case is set down for trial. The parties do not choose the judge, and the judge typically will be a generalist.

In the mediation process the parties are the ones who exercise control over what happens from start to finish. It is a positive thing to put the responsibility for the outcome of a dispute in the hands of the parties involved. This is so because the result is achieved by them. It is not imposed upon them. People who go through ADR typically feel more satisfied with the result, have a better understanding of what transpired and why, and feel more supportive of the outcome. ADR compels parties to consider different alternatives to resolving a dispute and to confront the actual resolution such as payment of money or the cessation of an activity. ADR removes some of the all-or-nothing mentality that can be associated with court proceedings.

So, Madam Speaker, as you can see, the advantages of ADR are widespread and have enormous potential. Given these advantages, I believe we ought to bring ADR into government contracts. The advantages of ADR are compelling. To ignore them would mean passing up a tremendous opportunity here, and I urge all members to vote for Bill 202.

Thank you.

*3:30*

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

DR. NICOL: Thank you, Madam Speaker. I just want to rise and speak for a few moments on Bill 202. As we've heard from a number of other members this afternoon, this is a Bill that has quite a lot of potential if it gets to the point where it actually becomes part of our process of dispute resolution. We've got some particular problems, though, in terms of how this Bill is set out. There are a couple of issues that I'm sure would have to be addressed if it gets to committee stage.

When we look at the whole idea of what focuses on dispute resolution, it's got to become part of the expected part of a process of looking at the judicial solution of a problem. If we begin with just certain parts of our contract dispute resolution subject to these kinds of mechanisms, what we're doing is creating an even more confusing system of expectations among the people of Alberta. There are a number of conditions or situations that are created by certain clauses in the Bill that do result in kind of an anxiety level increase or an increase in the level of uncertainty that's associated with whether or not these processes would go forth.

It's really unfortunate that Bill 202 didn't apply to a lot of the processes that go beyond just government contracts. There is some real opportunity to kind of alleviate the pressure that exists on our court system if we can get people involved in the ideas of dispute resolution either through mediation, arbitration, or some of the other newer techniques that are coming out now to talk about how to reduce conflict or mediate conflict. This is the kind of thing that I think we need to have a little more explanation of in terms of the context of this Bill, because what we see is that the Bill specifically only refers to mediation. I'm hoping there that that's taken in the whole broad context of all of the different processes that might be available for conflict resolution. So it needs to be dealt with in terms of a little more of a broad representation in terms of just the single word that shows.

The aspects of the Bill that I find kind of the most concern to me relate to the idea of the compulsory nature of it. I think that it would be very appropriate for us to recommend it highly or make sure that people are informed about the potential of it, but if we have a situation where it's really obvious that one of the members or one of the participants in it does not want to go

through any kind of a mediation, there has to be an option there to opt out, to allow it to go to the court process.

This kind of becomes quite obvious when we look at the conditions of clause 6 in the Bill, where we have options for not everybody that's involved in a contract being involved in that part of the mediation. This allows for kind of a real inequity in terms of how we go about making the process work. Processes such as arbitration, mediation, alternative dispute resolution, whatever name we put to them, only work if we get full-time, real commitment from the participants to both participate actively and live by the result. It's an important part of dealing with this kind of activity that we really look at the option of whether or not this flexibility that's introduced by having the elimination or the voluntary absence of one or more of the members still allows for the mediation process to continue. I think we've got to look at that fairly seriously.

The other part of it that seems to be quite interesting is the idea that in one of the clauses – number 5, I think it was. Yes, Madam Speaker, it is number 5, where they're talking about sharing the costs can become part of the mediation, but it also says that they'll be divided equally unless they can agree to some other process. If you are the participant here that's going to be potentially found at fault or potentially found in the position of having to make amends, you're obviously not going to agree to a process of sharing the costs. I think it would be better if we just left it out and said it would be part of the mediation process as to how the costs are shared, rather than putting in a kind of default option. So just allow for the whole process of cost allocation, cost sharing to be part of the mediation process as opposed to giving that kind of default.

I guess the last issue that I really want to address is the idea of why we don't expand this, why we don't make it applicable to a lot of the other issues. We've got a lot of exclusions here in terms of the types of government contracts that will not be involved in the process, yet when we look at how the government gets involved in actions with either groups of people, companies, or individuals in the province, there are a lot of options to expand on how we deal with this in terms of how it comes out. It's important that we look at it in the context of making sure that it gets applied equitably, that it gets applied in a position where no one is disadvantaged through some of the clauses that show up here.

It's a good start. It's too bad it didn't go broader and get involved in the entire judicial process. I don't see why we can't have this kind of alternative dispute resolution become part of the broad judicial system in the province. The Bill needs to be expanded. As the Member for Calgary-Buffalo has pointed out, it would be very good if that could be looked at from the perspective of becoming an integral part of the Department of Justice.

It's an issue, again, of expectations and how we look at that. I think this is just going to create some confusion for the people of Alberta in terms of what to expect when they get involved with government contracts, why one is dealt with differently from another. When we look at section 2(2), where it lists all of the ones that are going to be exclusions, you're kind of left with the impression that, gee whiz, almost all of the government contracts already have a dispute resolution mechanism built in.

Maybe one of the things we might want to look at is just suggesting very strongly to the ministers of the Crown that when they do write contracts, there is a clause at the end of it that includes a strong recommendation or a strong mandate that before conflicts are taken to court, they become subject to a degree of arbitration or of mediation, whatever is appropriate for that type of contract. Then we can see that people are really aware of what they're getting involved in. A lot of people are going to be signing contracts with the government and may possibly not be aware that this automatically becomes part of the contract they're signing in terms of how they can get disputes resolved.

I really think that this is a good step, but it didn't go far enough. It should have been applied broadly across the judicial system. I think it's something that we really have to look at as being a contribution to the process in Alberta, and I don't see why it's not done at that level.

Thank you.

THE ACTING SPEAKER: The hon. Minister of Justice and Government House Leader.

MR. HAVELOCK: Thank you, Madam Speaker. I am certainly pleased to rise and speak in support of Bill 202, which was brought forward by my friend and colleague the Member for Grande Prairie-Wapiti.

I do support the Bill because government needs to adopt a new way of thinking, a new approach to some of these issues. That is partially due to the fact that our resources to handle what seems to be the ever increasing litigation line of our court system are certainly tightened and shrinking, and we need to rely on people to work through some of the problems that they themselves have created.

Now, the Justice department has actually long worked towards alternative dispute resolution mechanisms. Despite what my colleague the Member for Calgary-Buffalo stated earlier, there are a number of initiatives in place at this point in time, and I actually see Bill 202 adding quite nicely to those initiatives. What I'd like to do is simply take a moment to advise the House of some of the initiatives which we're presently involved with, again to dispel the notion that the department actually has not been proactive in this regard.

*3:40*

One item, for example, is that the court services business plan identifies ADR in civil cases as one of the initiatives to be undertaken over the next three-year period. The process includes identifying alternative options, consultation with the judiciary, and implementation. In fact, Madam Speaker, the Alberta implementation committee for systems of civil justice task force report is of the view that we should proceed as quickly as possible with early ADR. This is one of the recommendations which we just recently received.

Internally we have established a departmental Dispute Resolution Co-ordination Committee. It would be nice if they came up with shorter names for these committees. Nevertheless, what we are going to be doing is implementing a process to propose a policy on dispute resolution for Alberta Justice. We're presently compiling an inventory of current activities in the department. Once that is done, the committee which I just mentioned will then consider what needs to be done and prepare a departmental implementation plan, which will include as a component the court services action plan for dispute resolution. That's the plan which I mentioned earlier. The committee, I understand, will be considering this at its next meeting in May, and we are moving forward in that regard.

Court services is also working with various committees of the bar and the judiciary to develop other initiatives that involve elements of dispute resolution. One is that we're looking at

expedited Rules of Court for cases under $75,000. The intent of these rules is to streamline the procedures required to resolve those particular cases. We're looking at case flow management, and this concept involves the court in supervising the progress of cases, which is a function traditionally left to the parties and their counsel. We will also be presenting in the near future and tabling in the House a Bill which will be increasing the limits of the Provincial Court. We're looking at phasing that in and hopefully getting it up to a maximum of $10,000. Another initiative is that the civil law division has been working on construction contracts to determine in what ways a dispute resolution process can be implemented and actually incorporated into those agreements.

Finally, Madam Speaker, we have actually provided training to lawyers and information to clients to help them become better aware of some of the alternatives that are available out there. So despite, again, what the hon. Member for Calgary-Buffalo said earlier, the department has been quite proactive, and I see this Bill 202 as being certainly an important piece of the puzzle.

In my opinion, Madam Speaker, the use of ADR in government contract disputes will reduce the burden . . .

MR. DICKSON: Madam Speaker.

THE ACTING SPEAKER: Point of order?

**Point of Order**
**Questioning a Member**

MR. DICKSON: Under *Beauchesne* 482, I wonder if the hon. minister would entertain a brief question before he completes his speech.

MR. HAVELOCK: Not right now, thanks. I get enough of that during the day.

**Debate Continued**

MR. HAVELOCK: In any event, as I indicated, the use of ADR will I think alleviate some of the burden that the system is presently facing with people of course again becoming much more involved in litigation. It will also, in my view, create more of a level playing field for those individuals who enter into a contract with government. They know really at the outset how the dispute may be resolved, and I think it would create a much more positive beginning to the contract negotiations.

Thus, Madam Speaker, I am very supportive of this Bill, but I make that comment subject to a couple of qualifiers. It may be worth while at the committee stage to amend the Bill by making it mandatory for a mediation provision to be included in government contracts when it enters into that contract with the third party, or the private sector. In my view, that is preferable to the provisions of section 3, which I understand require mediation after the close of pleadings in an action prior to being able to take any further step in that action. Secondly – and I'm not entirely convinced on this point – we may want to examine whether or not we should put in a financial limit. That financial limit we may want to have coincide with the limits available in the Provincial Court. That would assist in relieving some of the, for lack of a better term, clogging of the system at the higher court level.

In conclusion, though, I certainly support this Bill. I think it's a positive step. I believe that it can be part of an overall process. I would like to see at least one of the amendments I've discussed briefly perhaps seriously considered at committee level. Our department is looking forward to working with the member if this Bill passes in ensuring that the use of ADR becomes widespread in the province.

Thank you.

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

MRS. SLOAN: Thank you, Madam Speaker. I consider it a privilege to rise and speak to this Bill 202. I have listened intently to the comments made by the previous speakers, particularly the lawyer colleagues that we have in the House with us. I would speak to this Bill not as someone who has a legal background but as someone who has worked for actually the last 15 years as an employee in the public sector and, also, in the last five years as someone who worked in an environment in which considerable negotiations and work were undertaken to build and foster productive employer/employee relationships.

I am fully cognizant that Bill 202 does not apply to the public sector. This has been clearly outlined within the body of the Act. However, I think there is relevance to speak to this Bill on the tenets, the aspects, the pieces of the employer/employee relationship, the elements of a contract that must be in place, which this Act does not foster.

In fact, I view this Act, with all due respect to its sponsor, as a muscle Act. It is an Act that interferes with the process of collective bargaining, whether that bargaining and negotiation is going on in the private sector or public sector, with the government as a partner or not as a partner. It sets a precedent in this province, a precedent that I do not think is a healthy one. In fact, Madam Speaker, on numerous occasions during the period of time that I have been a resident of this province, I have heard this government say that they have no place interfering with or taking unfair advantage in a negotiation process. I have heard them say that with respect to the laundry workers' strike. I have heard them say that in the context of the current Safeway strike. What this Act does is in fact say that they want an unfair advantage, that they want as a party to negotiation to be able to circumvent and push for a mediated agreement and to make that agreement mandatory and nonappealable.

There are a number of very concerning aspects of the Bill. Before I address those, I do want to raise these points with respect to previous comments that have been made. I would raise the question: how is forced mediation not adversarial? I have been party to mediations that have been mutually agreed to, but I do not understand how a forced mediation is not adversarial. How is forced mediation not perceived to intervene in the negotiation of a contract?

I also found it of interest when one of my hon. colleagues said that the government needed to catch up to the private sector. I would rather, Madam Speaker, that the government set the example. I do not think that we use as our ruler or as our report card in this House the activities of the public or the private sector. I think the responsibility is that we set precedents and laws that set a fair example. This Act is not a fair example.

*3:50*

My colleague has mentioned the aspect of section 3(6) with respect to, basically, the session taking place involving two parties, even though not all the parties may attend the session. Those parties attending the session can agree that the session take place. That is divisive, Madam Speaker. If what this government is trying to achieve is an environment where there is mutual respect and a constructive relationship built, that type of process

will not achieve that.

I also look at the aspects under section 4, where at the request of a party the mediator may file a certificate of nonattendance to a court, and then the court may take action. Those actions, Madam Speaker, are very heavy handed. The court may "adjourn the application . . . strike out the pleadings . . . grant any other relief." The question that I ask, despite the supposed evidence brought by the legal members on the other side of the House: why do we have to force a contract or an agreement? I have learned from my own experience that it is not so much the memorandum that's achieved but the process of achieving that memorandum that defines a respectful and functional working relationship with an employer. This Bill does not allow that process to take its natural course. It does not allow the parties to evolve, to mature, to learn. It basically puts those parties at the mercy of a mediator.

I would also raise in this House: what in fact is the definition of a mediator in this Act? It seems – and I have seen this from experience – that it is a very popular profession. It appears to be attracting a lot of interest. What in fact is the definition that we are using in this House? Is it someone who actually has certificates, degrees, or is it someone who has basically established an at-home practice and is providing that service? I think at the very least that amendments defining that in a more concrete way would be valuable.

To conclude, again I do not think this government wants to set the precedent of being a muscle employer. I do not think they want to set the precedent of not fostering constructive employer/employee relations. This Act does set a precedent in that respect, Madam Speaker.

MR. JACQUES: Point of order.

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

### Point of Order
### Factual Accuracy

MR. JACQUES: Thank you, Madam Speaker. The hon. member has used at various times and most recently "this government." I would point out to her under Standing Orders, respectfully point out to her, that this is a private member's Bill. It is not a government Bill. It does not reflect government mandate or government policy. So while I appreciate what her intent in it was, I would ask her to confine the argument to the member, as distinct from the government.

Thank you.

THE ACTING SPEAKER: Go ahead, hon. member. We'll deal with the point of order when you've finished your debate.

MRS. SLOAN: Thank you, Madam Speaker. I would welcome the opportunity to respond while following your ruling on that point of order. If I may, I think that perhaps what was misleading to me is that we see the hon. Minister of Justice rise, support the Bill, speak at length and very strongly in terms of its merits, and perhaps it was a misconception. If that's the case and if in fact the Minister of Justice does not support the Bill, then I'm certainly willing to retract my statement with respect to the government's support for it. I guess I was assuming, in his role officially and identifying himself officially as the Minister of Justice, that he was inferring that there is in fact a significant degree of support for this Bill within the government.

### Debate Continued

MRS. SLOAN: To carry on, then, in summary. In my experience as a registered nurse and as a member of an organization that was heavily involved in the negotiation of contracts, I have seen both constructive and destructive processes utilized to achieve agreements. I am not saying that all mechanisms work as efficiently as they should, but sometimes even during the most frustrating, difficult, drawn out negotiations there is an aspect of growth and productivity that occurs as a result of that, and I think this Act circumvents that opportunity.

Thank you, Madam Speaker.

THE ACTING SPEAKER: The hon. Member for Edmonton-Mill Creek.

MR. ZWOZDESKY: Yes. Thank you, Madam Speaker. I, too, am pleased to enter this debate on Bill 202, that being the Crown Contracts Dispute Resolution Act, because I am quick to recognize that governments do need from time to time specific mechanisms such as empowered in this Act in order to deal with awkward and difficult situations that sometimes arise when contract negotiations break down. I believe the thrust of this Bill is to try and alleviate some of that breakdown.

I read it in the usual fashion, and that is to adjudicate it on substance and adjudicate it in terms of the normal looking glass that I use when I look at all private members' Bills and/or government Bills. I look at it to see if it's a fair Bill and whether or not it's fair to expect the outcomes the way they're initiated and explained here, how it might improve governance in an overall sense, Madam Speaker. Will it benefit people? Will it streamline things? Will it provide for better service, more accessibility? Will it be less costly or more costly to taxpayers and so on?

So against that light I read this thinking to myself that while I appreciate government does need that type of a mechanism, which this Bill would facilitate, how does government or in this case the private member advance to government a Bill that would not make it appear that government is acting in a heavy-handed or too forceful manner?

One of the things that I note here, of course, is that the Act applies to virtually all contracts involving the Crown, and I've had some considerable experience in that regard, having done a number of consultative projects for the province of Alberta in a former life. I'm well aware of the fact that when we enter into a contract, everybody, generally speaking, is very positive, and they look at contracts as having things of mutual benefit. That's why we get into these deals. We see something good for the Crown, and we see something good for the private person or the corporation or the business or whomever it is that the government chooses as its second partner.

One of the best pieces of advice that I was given back when I was studying prelaw in respect of contracts in a general sense was that you should not only take a look at what good might come out of this in your alacrity to join into a contract but also take a look at how it is you can get out of the contract. Sometimes people's optimism tends to be a little bit clouded on the second part of that arrangement as opposed to the first part.

*4:00*

I look at this from the standpoint of the process, and while I applaud the member and others who have spoken in favour of the Bill, I do want to say clearly that I applaud any exploration of

new methods such as this Bill proposes. In particular I was interested to hear the Government House Leader and Justice minister comment on his examination that it would be necessary to set financial limits – that would be a good suggestion or at least something to look at doing – and also look at how we might alleviate any cloggings, I think he said, in the judicial system. I support those particular notions as well.

I'm looking at this Bill from a very positive point of view, trying to understand whether or not it's necessary here to give us one more layering of bureaucracy in the mediation process or perhaps in choosing mediators. I'm just wondering if it would be the member's intention to follow up in regulations or perhaps some other policy directives to start creating a bank of mediators who would be qualified and capable of stepping in in the event that they would have to be appointed through the process as outlined and whether or not that would create unnecessary and additional work and, against that comment, Madam Speaker, if it's not possible for the government to just be a little more careful, perhaps, in the wording of its contracts from now on. Wherever the Crown is involved, it seems to me they have the opportunity to structure the agreement in whichever way they see fit so that it has desirable outcomes but at the same time doesn't put innocent entrepreneurs or innocent consultants or individuals into the position of having to be forced with extensive costs later in case there is some need to terminate the contract earlier.

I'm curious to know whether or not in this case it's appropriate for the government to actually force mediation and to force a mediator onto the scene without perhaps having first taken a look at how they might better structure overall contracts and overall agreements. I know the Attorney General and all departments of government virtually in the province of Alberta do have access to legal counsel at many levels. A lot of legal expertise exists. So I question, first of all, the need for this type of Crown contract dispute resolution mechanism to be brought forward in such a formal way. It seems to me that opportunities might exist in the writing of these contracts to perhaps be a little more clear in terms of what's embodied in the conditions and terms of reference that are supported throughout the contract itself.

Nobody enjoys being in contract disputes, Madam Speaker, to state the obvious. When you take a look at one of the provisions here that says that costs that would arise out of any type of legal machination that may become necessary would have to be shared equally by both partners, I do have a concern in that regard. If the contract disruption or the length of resolution or the period of time that's needed to resolve an issue grew to be a little bit extraordinary, I wonder whether or not anybody could keep up with the deep pockets of the Crown. The Crown, it seems to me, could drag something on for an extensively long period of time and eventually win out.

I say this as I got looking at some of the contracts that we've been talking about lately, such as the Al-Pac agreement or the Millar Western agreement. As I started reviewing those, I gained a whole new appreciation for how complex the loan guarantees and the loans themselves are and how much really went into the creation of those, and I'm going to be equally interested to see how it is that the government might at some point have to get its way out of those deals. Perhaps some form of mechanism such as is outlined here may prove beneficial. However, I'm reserving some judgment at this stage on this.

The Act itself I really conceptually don't have a problem with, Madam Speaker, I have to say in all honesty. I think the key here to government contracts is that everybody attempts to be fair. Everybody attempts to do something of mutual benefit, but sometimes things don't work out that way, and I can recognize full well that the government may appreciate having something formalized that would assist them in working their way through some of the woodwork, as it were.

In conclusion, I want to just say that the Act itself, the spirit of the Act, to me seems fairly intact with those few perhaps reminders, one being the costs that we've spoken about, the costs specifically to the Crown as well as to the second party to the agreement, as well as the additional work being created through the legal and bureaucratic proceedings that might become necessary and the fact that the pockets, as I said, of the Crown are infinitely deeper. I would suggest that possibly we get some advice from some legal counsel on this and find out if in fact it's possible to incorporate the gist of this Act within government contracts per se so that we don't need a special Act. However, in the event that we find it's necessary to have this kind of an Act formally brought in, then at this stage, with the exception of the few points I've mentioned, I would give it at least cursory support and reserve judgment on my final vote pending more discussion and more debate.

So with those brief comments, Madam Speaker, I look forward to listening to more debate on this issue. Perhaps there will be more points coming forward from other members that could persuade me more finitely in one direction or the other. I will take my place now and allow someone else to continue the debate on Bill 202.

Thank you.

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

MR. WHITE: Thank you, Madam Speaker. This particular item of business before us, 202, strikes a common chord in what I used to do for a living in the construction and engineering business, dealing with contracts, as a matter of fact being one of the early members, I believe, on the first council in Edmonton of the Arbitration and Mediation Society.

This kind of legislation is a little bit heavy handed from my point of view in that there is a myriad of ways for resolution of a contract that has gone awry, this being one of them. Mediation is a very good start, but forced mediation is sort of like junior hockey players shaking hands after a game. Sometimes it is absolutely necessary, and sometimes it is not necessary and actually dangerous to do so and damaging to one party or the other. You have to allow the referee to make those calls or allow the calls on the advice of the two coaches, the two combatants in most cases. It is a valid way of resolution.

There are also others of course. There are judge-directed advocates. There are resolution advocates. There are a number of ways, not the least of which is an enforced manner, an arbitration clause, which is included in many, many contracts. In fact, in most of the contracts that I've drafted for the construction industry I would specifically include that, because it does make for a resolution of any of the difficulties which you often find in construction, whether it be the value of a contract or whether it be the participation of one contractor or another or subcontractor or quantities or the like. They all seek resolution.

This piece of legislation, although I have to agree with the sponsor, does in some instances go a long way to forcing the hand of the larger of the two players to come to the table, in which case I could support and will support the second reading because of the principle of the Bill.

*4:10*

Unfortunately, there is a much easier solution to this. If this government does honestly believe in the wisdom of those that administer contracts on behalf of the government and the contractors, whether they be individual contractors in the classic sense of providing physical work or contractors in the sense of being contract employees that provide the deliverance of service, if they and their associations would agree to some other method of contract dispute resolution and contain that within the agreements, in construction contracts, which I'm mostly familiar with, in the general conditions of the contract, then this kind of legislation would not be necessary, recognizing also that legislation is a very heavy-handed and cumbersome way of dealing with contracts in any event. Modes of operation change from time to time in all industries, and certainly in the construction industry it also occurs.

[The Deputy Speaker in the Chair]

Let's move to one area that particularly concerns me, the potential in all contract resolution – it's one side or the other using the law, as it were, as a tool to delay the resolution because it is advantageous for one side or the other. We're all familiar with this tactic if you've ever been on one end or the other of a legal dispute. This adds one more layer for one party or the other, regardless of whether it's the Crown or the third party to the agreement or a fourth party or a fifth party, to delay an action such that it is advantageous for one or the other. I would suspect that if the terms and conditions of a contract were such that the remedies were outlined and enforceable, then taking an application to a judge in chamber and having a summary judgment made at that point would aid the resolution of the contract as opposed to having to go through the machinations of the appointment of the mediators and the like, as prescribed in this piece of legislation.

The nonattendance. Certainly there are a number of speakers who have spoken to that certainly being disadvantageous to those that do not show up at a mediation, whether they're first, second, or third parties or fourth or fifth parties to an agreement or a dispute. Finding that the two parties agree that a mediator, a third party, can be appointed and then the decisions are made in their absence certainly is not the kind of outcome that would be in keeping with good application of the law and fairness and equity in deliverance of the law.

The last area that concerns me somewhat – again, other speakers have spoken of the matter too – is the distribution of costs. Now, the Crown does have in these kinds of disputes not unlimited, of course, but certainly a great deal of latitude and almost infinite resources in this respect and can in fact drag out or make it exceedingly difficult for them, whether it be the plaintiff or defendant in the action, to finance their own operation as well as to finance an action. The costs and the delay in seeking resolution in a court or the application of these costs could be detrimental to the position of either one of those parties, a third party or a second party, in either of those positions.

I submit to you that regulations would have to be drafted. I know this government's propensity to do away with regulations. This might not be in keeping with that element of philosophy, which personally I have some sympathy for.

I'd say to you that this piece of legislation in spirit and intent is definitely, I believe, the right thing to be doing. It may not be fully fleshed out, and if this Bill does get to committee, I should like to hear the amendments that are put forward by the members in this Chamber to see if they in fact do satisfy the conditions that I would put from the limited scope that I have in reviewing contracts in the construction and engineering industry.

I'd leave that with you, sir, and wish that there's some further examination of Bill 202, the Crown Contracts Dispute Resolution Act. I would like to see it go to committee and therefore will be supporting the vote in that respect.

Thank you, sir.

THE DEPUTY SPEAKER: The hon. Provincial Treasurer.

MR. DAY: Thanks, Mr. Speaker. I just want to share a few comments also as I look at the Bill. It's exciting to be in an era and a time of freedom of expression and freedom to vote on Bills as we see them. In our caucus, of course, we have a great diversity of opinion on any number of issues, and that will be somewhat reflected today. Even though I'm a bit nervous at once again agreeing with my critic on a couple of issues – and we haven't corresponded back and forth on this. This is not a collusion between myself and the Liberal opposition critic, but I share some concerns.

Obviously one has to agree with the basic intent to resolve problems before it becomes necessary to proceed with what we always know is expensive and time-consuming litigation. In principle it's difficult to oppose that.

I've got some questions, though, looking at the Bill. I would have to have them resolved in my own mind before I could actually vote for it in its present state.

Mediation, of course, is always available as an option, and I'm wondering if there is similar legislation in other jurisdictions and what's been the effect of the burden of this litigation. Has it been proven to be all that the member quite rightly hopes it to be? I believe the intent is well founded by the member sponsoring this particular Bill, but I'd like to know if it's been proven effective in other jurisdictions, not that we have to always have that proof before we go ahead with something. Certainly in Alberta the last three and four years we've done quite a number of things that other jurisdictions haven't. In this particular case I'd like to know if this has been road tested anywhere and what the results have been.

Has the member considered, for instance, a process where you would have certain types of Alberta contracts that would actually have firm arbitration provisions written into them? Has that been approached or thought about at all?

Actually, I'm concerned – and I think I've heard it in comments from both the opposition Treasury critic and the Member for Edmonton-Calder – that sometimes this kind of enforced mediation can actually increase the use of litigation. When you're faced with the possibility of legal fees and costs, those risks often actually motivate a person or a contracted party to settle out of court, and we've seen that in a number of situations we are faced with in government. The very thought of that has been a motivator, and things have been settled.

I wonder if the member has had the opportunity to consult with the Auditor General. I think the Auditor General would well require the province to recognize some contingent liability with regard to a specific contract dispute if this goes ahead. Has that been given some consideration? It's an area of caution that I'd certainly want to hear about.

I'm assuming the Act has been considered in relation to federal statutes, the Companies' Creditors Arrangement Act for instance. Has there been some consultation and discussion there in terms of the effects as you bump up against some of these federal statutes?

It looks to me anyway like it would result in the definition of "contract" having to be considerably narrowed. I would ask the member what his thoughts would be if I were to suggest, maybe suggest strongly, that the Act would have to exclude any dispute that concerns a province of Alberta loan or loan guarantee or standstill agreements on loan restructuring agreements where a consent receivership is provided for instance. Because the size and importance to the province of these loans and guarantees is a real factor in terms of how we proceed. What would other legal remedies offer? I think there's some concern and consideration there. In these cases you could have situations where mediation would actually delay the Crown's interest and possibly delay at considerable expense. I could bring forth examples of how there's been some settlements that have been achieved without this type of legislation. A contractor who has deteriorating assets could be allowed interim action to protect his interests. That could be considerable in terms of expense.

*4:20*

Section 3(2), as I see it, has some problems. What could happen – I'm not saying it would. It looks to me like the potential is there where the party seeking to enforce a debt could actually be stopped from doing so, if this were in place, unless they could prove that the other party is actually absconding with the assets. That seems to be how section 3(2) is reading, and I'd like some clarification if those possibilities have been evaluated. That could certainly create serious problems to the lender, whether it's a private-sector lender or if it's government in our efforts to deal with and clean up some past situations which are being publicly accounted for now, which we're trying to make some progress on.

Section 3(2) could easily increase a provincial liability and make collection from a private contractor more difficult, and these are things that have to be taken into account. If one party wanted to delay things indefinitely – and this is what we need clarification on – it appears that all that party would have to do is to not agree on the terms of the scope of reference of the mediation. It looks like there could be potential, at least in that section, for great delay there. We do have a case, actually, of an Alberta company, which will go unnamed though it's public record, in dispute with an American company. One of the delay factors that is being used – it's been over a year now – is just something as simple as the choice of which venue the parties would sit down in. Is this legislation going to give rise to more possibilities for these types of delays?

The issue of absconding debtors I think is an important one. Some regulations under 3(2) would have to be in place before the legislation is in force in my view – we'd have to see what those regulations look like – so that there isn't any opportunity or ambiguity in these cases for a debtor to protect his assets by absconding with them before the regulations are in place.

I would also suggest that there would need to be an exclusion for any matter that affects a taxation issue or a Crown investment. The expense associated with delay here could be significant, and I'm asking the member for some direction to give me a little comfort with those.

The other aspect: what about Alberta Treasury Branches? Should there not be an exclusion there in the Act? If this is put into place, there could be an adverse effect on Alberta Treasury Branches. They would then appear, at least from this legislation, to be bound to certain processes that other banking institutions – in other words, their competitors – are not bound to. As you know, with the movement last year of a management board being put in place at Alberta Treasury Branches and the impetus given to that particular operation to become more private sector like in a number of ways, which they're doing as a matter of fact, the management style is changing. They're looking at performance-based compensation, related issues, and other things. So at least, as I see it here, there would need to be some exclusion there for the Treasury Branches. Otherwise, they're going to be in an untenable position in terms of competitive realities with other banking institutions.

These are some of the delays that I see. I would like to see if they can be addressed before I could have the comfort of a vote of support for this, but I do commend the member for the good intent here. I think it's well-meaning. I just need an explanation on these cautionary notes.

THE DEPUTY SPEAKER: If there are no further speakers on this item, I'll call on the hon. Member for Grande Prairie-Wapiti to sum up his comments on Bill 202.

MR. JACQUES: Thank you, Mr. Speaker. I've listened intently to the debate by all private members today. Certainly there is a divergence of opinion that has been expressed: some supporting it, some not supporting it, some supporting it in principle but wanting to see some of the issues clarified if it does proceed to the committee stage.

If I could just briefly refer to some of the points that were raised. Certainly some of them I agree with in terms of the relativity, but some of them I certainly would disagree with. I think the one thing we're losing sight of here is that what we're proposing, basically, is a process on a government contract, a contract that's already been negotiated. In other words, the terms of reference of the contract, the negotiating process, is not subject to mediation. It's just like the process that we would normally enter into a contract, two people acting in good faith, and we establish the terms of reference of this contract. What we are saying at this point in time is that if the claimant files a statement of claim, what happens right today? It ultimately either will go to court or it will settle out of court.

Now, I would disagree, with all due respect, with the minister of finance, who would suggest that somehow out-of-party resolutions would be thwarted or somehow slowed down if we had this prior to going to court. Certainly if I look at government, in my knowledge of government any out-of-court settlements have been dragged out for a very, very prolonged period of time, years in fact. Indeed, there have been stalling techniques, but generally these all are leading up to ultimately a court case.

What we are really saying here is that either one of those parties to the contract, be it the Crown or the other party, is obligated under this provision to recognize that the mediation process must kick in at the time that statements of claim are filed, before any further legal action. Now, in order to thwart any kind of lengthy period of time, we put provisions in there: a maximum in terms of (a) when it must take place and (b) even in terms of the decision as to who should mediate it. The important point is that what we're really saying is not a forced, mediated settlement here but for both parties to attend a session where a third party mediator has been agreed to between the two of them, and if not, the court would appoint it. This is the mediation process that can be followed. He can do this in two or three hours. If either one of those parties rejects that, end the game. You carry on.

What we're saying here is let's impose a time of sober thought where both parties with a neutral party can sit down and hope-

fully, in the same spirit in which they negotiated the contract, come to some form of resolution without involving the courts in a further process but without in any way denying them the ability to do that.

Mr. Speaker, I'm not a lawyer, and I have to defer to a lot of the comments from my learned colleagues that have spoken today. There are many points that have come up from a legal point of view that certainly should receive debate in the committee stage and should be resolved at that point in time, but what we are dealing with here is the essence of the principle of the Bill. Do we believe that people should have an alternative laid out for them in a very simple way to say to pause before we go challenging down the court process? I suggest to you that if I were to take an example that was perhaps alluded to by the Member for Edmonton-Riverview, who was speaking of the negotiating process and all the benefits that accrue out of that, what we're really talking about here is a process not unlike a collective agreement.

In a collective agreement, most of them that I've ever seen provide, for example, a process of grievance. In other words, that contract spells out what will happen. There's an orderly process of how those disputes are resolved, and in most cases they will not involve the courts. In normal contractual types of obligations there is not that type of thing unless both parties willingly go into it and agree to it. So all we're saying here is: "Stop. Look at it, both parties, and if you reject it, if you don't want to proceed with mediation, fine. You sign off on it. You've done your thing. Go to your actions."

I'm sure the minister of finance will be thrilled to review my comments earlier in my speech, where we spoke about the Saskatchewan example and the tremendous benefits that have been seen there.

Thank you, Mr. Speaker.

*4:30*

THE DEPUTY SPEAKER: Sorry to interrupt the hon. Member for Grande Prairie-Wapiti, but under our rules we have five minutes to sum up. We're well underneath the time for the debate, so if you'd like to have further, I'd be willing to ask for unanimous consent.

[Motion carried; Bill 202 read a second time]

## Bill 203
## Off-highway Vehicle Amendment Act, 1997

THE DEPUTY SPEAKER: The hon. Member for Livingstone-Macleod.

MR. COUTTS: Thank you, Mr. Speaker. It's a great deal of pleasure to rise today and speak to Bill 203 in second reading, as we look at the principles of a Bill that involves something that involves the public interest and safety and an awareness of some of the dangers that are out there for us. It's a simple Bill, talking about making snowmobile helmets mandatory not only for the driver but for passengers on snowmobiles. It is about safety, it's about safety awareness, and it's particularly because we have an industry that is a growth industry basically. It's experiencing an increase in the number of participants not only from within Alberta but also visitors that come here to enjoy our trails, and that makes it a tourism industry. The confidence that we have addressed, all of the public interest that other provinces and jurisdictions have addressed would certainly enhance the economic development of Alberta.

This Bill has emerged out of a concern raised by the public over the rash of snowmobile fatalities this particular winter. There is a concern out there that as a result of the lack of regulation and legislation in Alberta specifically pertaining to snowmobiles, there are some, although not all, snowmobilers out there who are menaces to themselves and to others.

These sentiments were echoed repeatedly in the media over the winter months. One such example can be read as follows:

> The government's indifference to the carnage wrought by its failure to license and properly regulate snowmobiles contrasts sharply with [the] stringent rules governing other motor vehicles.

This particular comment was the reaction in an *Edmonton Journal* editorial after the fifth of 11 deaths this season.

In February a headline in the *Edmonton Sun* read "Something Has To Be Done." Consistently throughout the season media outlets have raised the point that we have no helmet legislation.

Eleven Albertans died in snowmobile-related accidents between November 9, 1996, and February 15, 1997. Of these, three collided with fencing, two were involved with motor vehicles, one was buried by an avalanche, and the remaining five died from impacts with trees or an impact with the ground. Three of these were known to have alcohol involved. The number of fatalities in Alberta has increased over the years. In 1991-92 there were no fatalities. In '92-93 there were again no fatalities. In '93-94 there were three fatalities due to snowmobiles. In '94-95 and in '95-96 there were six each year, and then in 1996-97 there were 11. Most snowmobile accidents result from operator error, overconfidence, or inexperience. It's proven that males aged 15 to 34 pose the greatest risk. In 1995-96 there were 86 deaths across Canada directly related to snowmobiles. Almost 50 percent of snowmobile injury victims under the age of 12 were not wearing helmets. This makes me question why anyone would let a child on a snowmobile without a helmet.

This Bill amends section 23 of the Off-highway Vehicle Act, which establishes limits on the operation of off-highway vehicles, including snowmobiles. The amendment adds to the Act that no person shall operate a snow vehicle, ride on a snow vehicle, or transport a passenger without wearing an approved safety helmet. The penalty for this offence under the amendment is the same as the penalty for not wearing a helmet on a motorcycle, which is a fine of not more than $500 and six months imprisonment in default of payment or six months imprisonment.

Mr. Speaker, I would like to take a moment to discuss the technology used in snowmobiles today, because I feel it has a big influence on some of the safety features and how the operators should be conducting themselves and setting themselves up for the proper safety of their own lives and not doing undue injury to themselves. For some time now snowmobile manufacturers have been working to improve the suspension systems on snowmobiles in order to provide a better ride and a smoother ride. They have been largely successful, and today's snowmobiles are far more comfortable than they have ever been. However, this also means that it is possible to drive faster without getting bounced off like the riders used to do.

Mr. Speaker, problems arise when you try to stop one of these machines when you're moving at 100 kilometres per hour or more. Some of these snowmobiles weigh 600 pounds and have 140 horsepower. You see, not only is the snowmobile on snow or ice, which we all know is not necessarily conducive to stopping, but the braking systems on snowmobiles are not as effective as those that are on wheeled vehicles. The bottom line

is that a snowmobile cannot stop on a dime. This is compounded by the fact that the passenger is in an open cockpit without anything to protect themselves. At least when we are in cars, we are protected within the car's frame. The helmet is the only protection snowmobilers could have or should have.

Some of these snowmobiles are capable of traveling at 160 kilometres per hour, and if any of us have driven down Highway 2 at that speed in our cars, we would undoubtedly have found a peace officer pulling us over. In fact, I'm not sure that my van goes that fast. If it did, I definitely would be pulled over, and the peace officer would be writing me a ticket. You also see snowmobile tracks where snowmobilers have gone by in the ditches, and I could attest to the fact that they go by at more than the 122 kilometres that I was just stopped for.

*4:40*

That brings up the issue of enforcement, and although it is not addressed in this particular Bill, it is something that should be looked at and provide some options to us. Currently there is a snowmobile safety task force, which I will discuss with you in just a few more moments. That task force is examining the possibility of using other government bylaw enforcement officers, such as fish and wildlife officers or transportation enforcement officers, to complement the ability of the RCMP. Another option is to follow the lead of Ontario and create special constables.

In 1992 the Ontario government created STOP, or snowmobile trail officer program, which is a volunteer enforcement unit that recruits longtime snowmobilers instructed in safety to work the area. These special constables are empowered to enforce Ontario's Motorized Snow Vehicles Act and are able to issue tickets and summonses. They can inspect snowmobiles for their safety and even require drivers to surrender breath samples. In its first year STOP officers laid 25 impaired driving charges and pulled over more than 4,000 snowmobilers. The program has been so successful that it's expanding beyond its initial trial area around Sudbury.

I bring this to the forefront because snowmobilers in Ontario have to wear helmets. This is just an example of one of the enforcement alternatives that could be open to us should we look at passing this legislation. Granted, Ontario has much more comprehensive pieces of legislation governing safe snowmobile use. Since we have so few regulations related to snowmobiles, it seems hardly worth the police's time to enforce these regulations. If we had serious laws, then we could deal with the serious problem of snowmobile safety in a very serious way.

We currently do not have the resources to enforce the existing legislation pertaining to off-highway vehicles. The specific area I'm referring to is the requirement to register and insure these vehicles. When was the last time someone was pulled over on their four-wheeler to make sure it was insured? If we cannot enforce the Off-highway Vehicle Act as it currently stands, there is no reason we should not be able to add to the Act. That way when the police do set up a Check Stop, they're able to look for significant violaters and lay the appropriate charges. As it now stands, it is hardly worth their while. Let's give the police the legal tools they need for when they have the enforcement tools that they need.

I know the option is out there that this legislation should extend to all off-highway vehicles. It has been mentioned to me that it should include dirt bikes, three-wheelers, quads, Odysseys, Argos, and snowmobiles. However, the situation is vastly different between snowmobiles and Argos for example. Argos are six- or eight-wheeled amphibious vehicles. They have a maximum speed of 12 to 20 kilometres per hour and weigh quite a bit. Snowmobiles, on the other hand, can reach speeds of 160 kilometres per hour and weigh less and less each year. The chances of splitting one's skull open while driving an Argo is not as great and as likely as on a snowmobile.

It seems to me that it is always very difficult to legislate something that we should all be doing because it makes just plain common sense to do so. Unfortunately, people have said to me: until you pass that law, I won't put a helmet on. And that's really convoluted. We pass laws that often infringe upon people's rights or so-called rights. We have passed laws that say that you cannot drive over 100 kilometres per hour on some roads. Some people like it. Some think that it is necessary, whereas others see it as an infringement on their rights. We have passed laws saying that you must wear helmets when you drive a motorcycle or are a passenger on a motorcycle. Some people think it tends to save lives and also prevents serious injury, while others say that it violates their freedom.

When this Assembly debated whether or not to implement legislation requiring mandatory use of seat belts, many members spoke against the idea. That was largely based on the fact that at one level or another it was infringing upon the individual rights of Albertans. Hon. members argued that there should be more focus on the cause of the fatalities in car accidents, which was alcohol for the most part. The members felt that putting seat belts on was a band-aid solution and that we were trying to protect Albertans from themselves. Many worst case scenarios were raised, from drownings to fiery, exploding gasoline tankers, and most members agreed that increased safety awareness and education was required.

Mr. Speaker, that was 10 years ago, and although the issue is different, I have no doubt that we will hear many of the same arguments. After the seat belt legislation passed, it was found that Albertans were among the highest numbers in terms of support and use of seat belts across the country. The people of this province are law-abiding citizens, and they will obey the laws that are passed and presented in such reasonable fashion. With cars most people are responsible and safe drivers. They are not the people whom this Bill is aimed at. It is the unsafe drivers that we are trying to protect others from with this Bill.

In the case of the snowmobile helmets there are no worst case scenarios. Under the Transportation and Utilities traffic safety initiative, a snowmobile task force group was established in January to examine overall snowmobile safety. Mandatory helmets is just one of the regulatory-type changes that this task force is considering. In addition to emphasizing a strong safety awareness and education program, they are also considering increasing fines for violations, having registration stickers as a condition of the sale of vehicles, mandatory training, making those under the age of 14 require a safety program, and coming up with equipment standards for the safety of the passengers and the drivers.

Ontario uses a sticker form of registration. These stickers are large and reflective and bear the snowmobile's registration number. They are mounted clearly on either side of the cowling or the hood, and essentially they replace the licence plates that we have in Alberta. Ontario is now looking at allowing custom registration numbers to be painted directly on snowmobile hoods. These stickers have an advantage in that they make the snowmobiles more easily identifiable. If someone unwanted is cutting across your field, it's easier to take down the number and report the snowmobiler. Registration stickers would help to aid the

police in enforcing snowmobile legislation, and for this reason I was pleased to see the task force take a look at this.

The task force is expected to deliver their final recommendations this summer, which I look forward to. Safety training is indeed one area that all parties agree needs to be co-ordinated and emphasized more.

In June of 1995 the Alberta Snowmobile Association made a presentation to the standing policy committee on natural resources and sustainable development. At that time the association was asking the government to change the Off-highway Vehicle Act to require the use of safety helmets by drivers and by passengers. It also called for a sticker system of snowmobile registration, a $10 surcharge to be tagged on to the registration fees, and an increase in penalties for uninsured vehicles. This was two years ago, after a winter when there were only six fatalities. Their position has not changed since then. They would still like to see mandatory helmets.

*4:50*

In fact, the primary advocate for the use of these helmets is the Alberta Snowmobile Association. Their motivation is twofold. First and foremost, they want them for safety. Their secondary motivation is that it helps to decrease the perception that snowmobiles and snowmobilers are dangerous. What is impeding them is that they represent only 5,000 of the approximately 12,000 snowmobilers in this province. However, despite this fact, they are the largest organized voice of snowmobilers across the province. The association itself says that they have a voluntary compliance of 90 to 95 percent using helmets.

Snowmobiling has a potential to open up many tourism opportunities for operators who find their business is marginal with the summer season alone. It gives motels, service stations, and restaurants customers in the middle of winter and an opportunity to expand. Restaurants and hotels who once served mainly summer hikers and anglers are now open year-round, and new ones are opening up. Snowmobile tourists are bringing undeniable economic benefits to areas where otherwise there wasn't much to do in the winter except snowshoe and ice fish. One study in Minnesota found out that snowmobilers spend up to three times what cross-country skiers spend. They travel in bigger groups and stay longer. This is a viable, growing industry.

This past weekend I met with some of my constituents from the Crowsnest Pass. The Crowsnest area is home to a lot of snowmobilers, and they would like to see a forum with the snowmobile industry including all aspects of it, ranging from safety and regulation, licensing and access management to winter seasons.

On Bill 203, Mr. Speaker, I look forward to the debate on the principles of this Bill in the ensuing time. Thank you.

MR. DICKSON: I just stand to make the very brief observation that I think this is an excellent legislative initiative. I applaud the initiative shown by the member for I think it's Livingstone. There is some other label. It's going to take me a while to get the new constituency names straight, Mr. Speaker. I think it's an excellent response to what I think people in the Snowmobile Association have called for. I think it's what responsible snowmobile operators want to see.

I understand we have something in the order of 120,000 snowmobiles in the province of Alberta. For a lot of Alberta families this is a form of recreation, so the multiplier effect would mean that there is a significant number of Albertans that would be directly affected by Bill 203.

I'm interested to note that the information I've got is that we've had 13 snowmobile fatalities in Alberta. Many of these involve trauma to the head, to the skull, and when I contrast that with Ontario, snowmobilers here are dying or killed at about four times the rate of snowmobile operators in the province of Ontario. It seems to me that would be a pretty compelling reason why Albertans and certainly legislators would embrace Bill 203. Indeed, there may be those who have the view that this is excessive government interference, but it's hard not to put the safety of Albertans and Alberta children first. It seems to me that this is a measured and responsible kind of initiative to do exactly that.

I just might make this observation, that there are some other things that are generally expected to also improve safety. It's interesting that there has never been a fatality on an organized trail in Alberta. I'm curious and was interested when I saw that statistic. It makes me think that just as highways with signage and grades and that sort of thing have been organized in such a way as to prevent motor vehicle operators being taken by surprise and put in a situation where their safety may be imperiled, perhaps organized trails may serve much the same benefit. I'm not sure how popular that would be with snowmobile operators generally, but it's one of those things that may warrant some further consideration. I suspect there may be some other things that one might do as well to look to ensure that this continues to be a safe sport for Albertans.

The other bit of compelling evidence is that we know what the cost is to our health care system in terms of people involved in serious accidents, in particular where there is head trauma, so it seems to me that all members ought to consider very closely and very positively this initiative.

I salute again the member for bringing it forward. I hope that this doesn't simply languish as a private member's initiative but that the provincial government will see this for the valuable piece of legislation it is and move it forward and adopt it as a government Bill as quickly as possible.

With that I'll sit down and let others join the debate, Mr. Speaker. Thank you.

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

MR. LOUGHEED: Thank you, Mr. Speaker. It's a pleasure to rise today in support of the Bill brought forward by my colleague the Member for Livingstone-Macleod. Although it's a simple piece of legislation, it's a needed one.

Mr. Speaker, I want to begin by stating the obvious, that snowmobiles are off-road vehicles. They were not designed to be operated on highways, and for that reason they're rightly banned from the traveled portion of highways. The low profile, speed, and construction of the machines makes them very incompatible with motor vehicles.

Mr. Speaker, the sad fact is that even though they are not allowed on any part of the highway or ditches and embankments, we still had one fatality this winter as a result of a collision with a vehicle and two other fatal accidents on roads. As the sponsor of this Bill pointed out, more safety training is definitely needed.

This is an area where the Alberta Snowmobile Association has taken some initiative. They have a computer-based training tutorial available called Snow Pro. Snow Pro is a computer-based interactive snowmobile safety tutorial. It guides the user through various training modules in a graphical and user friendly environment. Each module is accompanied by a review test to ensure the

user has an adequate comprehension of the safety modules. The whole course takes five to eight hours, and the user can determine the amount of time he wishes to spend. When the user is ready for the final exam, they'll be prompted to insert a tamperproof computer disk which will record the results and then be shipped off for marking. If the user achieves the prescribed level of proficiency, they will be awarded a safe rider Snow Pro certificate.

[Mrs. Gordon in the Chair]

The Alberta Snowmobile Association would like to see a program established where kids under 14 years of age are required to take the course and get a safe rider certificate before they are allowed on the trails. This would help ensure that our kids have some safety training in the operation of snowmobiles before they take control of the machines.

The Association has also involved one of the insurance agents in the province, who's offering 10 percent off the cost of the snowmobile's insurance if the owner has completed the Snow Pro course and is also a member of the Snowmobile Association of Alberta.

I want to agree with the Member for Livingstone-Macleod on the points he raised regarding the registration of snowmobiles. I think the sticker registration system that the department's task group is considering may help to alleviate some of the enforcement concerns. This will also help to assist property owners in identifying and ensuring that persons not wearing helmets or who are not wanted on their property can be more easily reported and apprehended. Often by the time the police are called, the offender is long gone. In this way they can be more easily identified and found. I know that one of the big complaints out there about snowmobiles is the damage they do to property, and I think the idea of large registration stickers would help the farmer to safeguard his interests or at least help in clearly identifying the offender.

*5:00*

Madam Speaker, it stands to reason that if snowmobiles are banned from highways, then we have to put them somewhere. It's important that Albertans who operate snowmobiles and enjoy snowmobiling have a place to carry out that activity, and that's why I think it's important to look at finding ways to support trail development initiatives so that there can be a safe and more enjoyable area to snowmobile, someplace other than in the ditches.

The proposal along these lines that the Alberta Snowmobile Association made to the standing policy committee in 1995 has some merit. It would have a $10 surcharge placed on snowmobile registration, and that would go towards trail construction. What would have to be done first would be to determine who would distribute this surcharge and to whom. Perhaps we should look once again to Ontario for an alternative. There the Ontario Federation of Snowmobile Clubs uses a trail permit, which costs $110 per person per snowmobile. This is the money that goes back into the trails. However, 99 percent of the snowmobile trails in the province are built and maintained by OFSC members. Perhaps this is something the Alberta association should look at, should it increase its membership base, and I believe it will, judging from the number of snowmobiles I see driving about the constituency of Clover Bar-Fort Saskatchewan.

Madam Speaker, the reason to go on about the issue of trails is that statistics show that there are fewer fatalities on trails than there are off the trails. Only 4.5 percent of fatalities in Ontario occur on trails. Snowmobilers are safer on those trails. While the majority of snowmobile operators are responsible riders – and this is particularly true of those members of snowmobile clubs – there are those who abuse those rights and privileges and create a negative image not only of themselves but of all riders and to the detriment of the industry. Those who belong to organized clubs have developed excellent programs and have done a lot to enhance the sport in the province and to raise its profile as a recreational activity.

I'm glad to see the Member for Livingstone-Macleod bring in a private member's Bill to bring some order to the snowmobile industry in this province, and I'm especially pleased to see a Bill calling for mandatory helmet use. Although there have been none this year, in the past there have been several fatalities as a result of riders not wearing helmets. The snowmobile industry has come forward dramatically in this province. Snowmobile use has advanced far ahead of the legislation we have in place and will continue to do so with the number of riders and the popularity of the machines. This Bill will help put the snowmobiling industry on a sound basis and add some protection for those who use snowmobiles. I don't think anything disturbed our province as much this winter as waking up on several Monday mornings and hearing that another snowmobiler had been killed over the weekend. Most of those accidents, Madam Speaker, were preventable.

There are critics that will say that if the majority of snowmobilers in the province wear helmets, as the Snowmobile Association says they do, then why do we bother regulating them? One argument refers to the case of the mandatory seat belt requirement we have in this province. Wearing them saves lives, and it's simply common sense. For this reason the majority of Albertans wore them before they ever were legislated. The legislation requiring their mandatory use passed second reading unanimously, despite the criticism it drew from members during the debate. After the law was passed, even more Albertans wore their seat belts, and this is an example where this Assembly passed legislation making something mandatory which was being done anyway. There's no reason why we can't do the same for snowmobile helmets.

As the sponsor of this Bill mentioned, this is the tip of the iceberg as far as safety is concerned. With most riders already wearing helmets, some people may think that it's unnecessary. However, Madam Speaker, my opinion is that it's an essential first step towards developing a further safety culture about the use of snowmobiles. This I can see value in, especially for our young people. If we promote safe attitudes towards snowmobiles with this Bill, then it is worth passing.

With that, Madam Speaker, I'd conclude my comments and urge our colleagues here to support Bill 203. Thank you.

MS OLSEN: I'd like to commend the Member for Livingstone-Macleod for introducing this piece of legislation. Having been a snowmobile user myself, I'm all too aware of the dangers of snowmobile operations. Beyond that, my experience as a police officer has taken me to a number of different types of accidents and fatalities. Although I haven't been to a snowmobile fatality, I certainly have been to serious injury and motorcycle fatalities.

I remember one young boy who was allowed to ride a small Y-Zinger type motorcycle without a helmet within the city limits. That young boy crashed that little motorcycle into a cement wall. He's very lucky he's with us today. I see no difference in the types of injuries sustained and the reason for calling for safety within the snowmobile environment and the use of snowmobiles any more than motorcycles.

I do believe that the member has introduced to us a very proactive and valuable piece of safety legislation, and I, too, would urge all members of this Assembly to support his initiative. Thank you.

THE ACTING SPEAKER: The hon. Member for Highwood.

MR. TANNAS: Thank you, Madam Speaker. It's with particular interest and pleasure that I rise today to join in the debate on Bill 203, the Off-highway Vehicle Amendment Act. The issues today before us are about snowmobiles and snowmobile safety.

When the first commercial snowmobiles, which were designed by Canadian Joseph-Armand Bombardier, were manufactured back in the 1930s, I doubt that rider safety was the main topic of discussion at the time. However, Madam Speaker, times have changed and so have snowmobiles. The use of snowmobiles has become popular across this country, indeed across much of this continent and across the world in those parts where winter snow gathers. With the popularization of any sport, be it mechanically based or not, come risks and in some cases risks that really need not be taken and can easily be lessened.

Madam Speaker, Bill 203 has been introduced for the purpose of mandating the use of helmets by riders and passengers alike. The need to legislate such an act is unfortunate in that it imposes a duty upon people who are participating in a sport. If this were a perfect world, the participants of this sport would of their own accord realize the need and the practicality of helmets, but it's unfortunate that some people need to have legislation to remind them to look out for their own best interest and, more importantly in some cases, the best interests of their passengers.

Snowmobile safety to most would seem to be an issue of common sense, Madam Speaker. Who in their right mind would get into an open vehicle that can travel up to 140 or 160, as has been variously described today? If someone can be fairly certain that the use of a helmet would help save lives or the life of a loved one, why would they not use one and command those that are riding with them to use one? I personally can't answer that question, but we all can do something about it by putting our support behind the Bill that's been presented by the hon. Member for Livingstone-Macleod. This will see legal requirements to wear safety helmets and legal repercussions for those who participate in this activity and don't use the proper protective gear or see that their passengers do.

Madam Speaker, let me share with you some astounding statistics that I have come across regarding snowmobiles and snowmobile accidents. In Ontario, which has been mentioned by various hon. members, they have a strong snowmobile industry, and estimates are that almost 50 percent of the young snowmobile injury victims were in fact not wearing helmets when they were injured or killed.

*5:10*

We enforce the use of seat belts for young people when they're driving a car or a truck, but we have not yet made it mandatory to wear safety devices when they're riding on a snowmobile. Madam Speaker, for the safety, then, of our children and our grandchildren we must consider making helmet use mandatory, as outlined in Bill 203.

Not to generalize about the male gender, but the fact of the matter is that statistics from Ontario show that almost 92 percent of snowmobile fatalities reported were males, and three out of five of those males were between the ages of 15 and 34. Now, Madam Speaker, while this is an Ontario statistic, there are similar statistics that exist in the province of Alberta. This past winter 11 people or more died in snowmobile accidents, and all of the 11 that my study showed were males. I'm not trying to suggest that we only mandate young males to wear helmets, but we can't disregard this statistic either.

The hon. Member for Livingstone-Macleod has taken a step in the right direction, as the hon. Member for Calgary-Buffalo has said, in bringing forward Bill 203. The mandating of snowmobile helmets will not harm the industry or the sport in any way and will only serve to benefit those who actively enjoy this sport.

Madam Speaker, I'd like to close today by urging all members of the House to vote in favour of Bill 203, and with that I would move to adjourn debate on this Bill at this time.

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

MRS. McCLELLAN: Thank you, Madam Speaker. I just would like to make a few comments with regards to this Bill. No? I can't?

THE ACTING SPEAKER: The hon. Member for Highwood has moved to adjourn debate.

MRS. McCLELLAN: Okay.

THE ACTING SPEAKER: As I said, the hon. Member for Highwood has moved that we adjourn debate. All those in favour of the motion, please say aye.

SOME HON. MEMBERS: Aye.

THE ACTING SPEAKER: Those opposed, please say no.

SOME HON. MEMBERS: No.

THE ACTING SPEAKER: The motion is carried.

The hon. Government House Leader.

MR. HAVELOCK: Yes. Thank you, Madam Speaker. I move that we call it 5:30 and that we adjourn the Assembly until 8 this evening and that we reconvene in Committee of Supply.

THE ACTING SPEAKER: The hon. Government House Leader has moved that the Assembly do now adjourn and that when we meet at 8 this evening, we do so in Committee of Supply. All those in favour of this motion, please say aye.

HON. MEMBERS: Aye.

THE ACTING SPEAKER: Those opposed, please say no. Carried.

[The Assembly adjourned at 5:14 p.m.]