

Legislative Assembly of Alberta

Title: **Tuesday, June 3, 1997**

8:00 p.m.

Date: 97/06/03

Government Bills and Orders Committee of the Whole

head:

[Mrs. Gordon in the Chair]

THE DEPUTY CHAIRMAN: I'm going to call the committee to order.

Bill 11 Registries Statutes Amendment Act, 1997

MR. GIBBONS: Under Bill 11, Madam Chairman, when I first spoke, there were a number of items I had concerns about, and the major concern was that it was the first of the omnibus Bills that was given to me. Under this we have a few different things that have come under the Act. Number one is the Builders' Lien Act as it relates to the amount of payment the owner must retain after 45 days, and that's from 15 percent down to 10 percent. This actually came forward a few years ago, and it was stuffed underneath a miscellaneous statutes Bill. At that time it was spoken about at great length, and at great length it was brought forward that the people out there that were under this did not like it as piecemeal. They wanted a complete portion, a Bill by itself to be talked about and brought forward.

The second item is to make changes in the Government Organization Act as it relates to registries, how the information within certain registries is accessed and controlled. Now, this is a case where when I talked to the department, they talked about an electronic mailing system from the law offices to the ADM in the municipality Act. Our concern on that is the control.

Chairman's Ruling Decorum

THE DEPUTY CHAIRMAN: Members of the Assembly, someone has the floor here. I would ask that if you want private conversations, you do take them out to the patio – it is a nice night tonight – or to the Confederation Room. Please, let us allow this hon. member to speak.

Thank you.

Debate Continued

MR. GIBBONS: Under this portion of the Bill it states that the department will go out and go to law firms, and they will be the actual corporate entity. Our concerns are to the fact of the safety, the security, every aspect that we have for Albertans out there. It does make a lot of sense when you think of the government system of cutting down on sending couriers across the city, sending couriers back and forth to the actual law firms that are in place. It does make an awful lot of sense, but the security aspect of the electronic system right now is a concern to us, the opposition.

The last one is to make changes to the Vital Statistics Act as it relates to the role of district registries. Now, this one you can read and you can pull a lot of things out. One of the items that has been put into *Hansard* is that it's for funeral homes only. I don't clearly think that is the only item there. It is actually an aspect where instead of having one registry, you could have four. You could have an Edmonton east, Edmonton west, Edmonton north or south. With that particular system are we going to have

a registry office in funerals, a registry office in births, and another registry office in marriages?

I would like to ask other members here to speak on this, Madam Chairman, but I will have a couple of amendments brought forward in the next short while. I'm waiting for my amendments.

THE DEPUTY CHAIRMAN: Edmonton-Highlands, go ahead.

MS BARRETT: Thank you, Madam Chairman. I was expecting an amendment to be proposed, and as this is committee, I may take the opportunity to run downstairs to my office and get some of my amendments photocopied.

I'm sure the section which refers to the Builders' Lien Act has the industry's acceptance. That's what we were told on introduction of the Bill and at second reading. But does it have the consumers' support? Madam Chairman, increasingly I am worried that this government is not interested in consulting consumers when it comes to protection of their interests. I'm sure the industry is thrilled to have the builders' lien requirement reduced to 10 percent from 15 percent. That's more potential money that some of them might run away with. That's more potential insufficient building that they may comply with. Sure, this is great for business; I'm sure it is. But I speak on behalf of consumers tonight when I say that this section of the Bill is flawed. There is no reason to reduce the amount of the lien from 15 to 10 percent.

Now, I'd like to speak about the Government Organization Act. I do have amendments downstairs. I'll go and get them in a minute. I really thought that the Liberal opposition was going to introduce amendments right away, and I'll make my photocopies right now.

In any event, it is evident in this Act that what the government wants to do is lay the way for privatization. They're talking about the entire government, not just about vital statistics, which of course is another part of this Bill. In the next couple of days, Madam Chairman, I have some information which I will be tabling which indicates very clearly that privatization of public services produces no greater efficiency and in fact produces less efficiency than services offered by the public service.

I'm going to just give you one example right now. This one I know by instinct, and I know it by consumer response. You remember a couple of days ago in question period how I raised the issue of the health care premiums arrears interest rates being at 19 and a quarter percent and how the provincial government has contracted to a collection agency called Equifax/CBC. Now, the interest rate is 19 and a quarter percent. When you deal with a collection agency – I can assure you, I found this out last night when I was out knocking on doors, polling vote as they say. A fellow says to me: "I'm really glad you raised that question in question period. It got some coverage. Let me tell you what a collection agency said to me. They said, 'We want you to transfer your health care arrears,' which were just a few months by the way, three months, because he had been unemployed, 'to a credit card.'" He said, "No, I don't have a credit card and I'm not going to do it. I'm not going to go out and get a credit card just for these purposes."

Anyway, they bugged him and bullied him to the point where they were saying: "Listen, buddy; you think you're going to get a job again in the next seven years? We're going to take care of you. We're going to make sure that your credit rating is bad and that it pops up every time an employer makes an inquiry about

you. We're going to put a lien against your house, your mortgage. We're going to do all kinds of really damaging things." I said: so what did you do about it? He said: "Well, you know what? I got fed up. I phoned the Department of Health and said: 'Look, I'm only three months behind; I was unemployed. Here's what I'm going to offer. I'll offer you three postdated cheques. We'll get out of arrears; we'll forget this nonsense about interest rates and Equifax and all the rest of it.'" And you know what? The department said: sure, no problem.

My point is that if consumers are treated with respect and if they are not treated by privatized, for-profit organizations, they respond. Apparently there are 84,000 Albertans who are in arrears on their health care premiums, and that's a cumulative number. If you were to get a call from a private, for-profit agency which has as its number one goal to make profit off delivering the service, the so-called public service, I'll tell you what you're going to do if you're feeling bullied. You're going to find a way to get your phone number changed and registered under your brother's name or your aunt's name or somebody else so that you're not being bullied.

Now, when you privatize public services, what you're doing is telling Albertans, "You're going to pay more for the same services for which you are already paying taxes," and in the health care system not only already paying taxes but paying health care premiums, which is a flat tax on health care. So the Government Organization Act component of Bill 11, the Registries Statutes Amendment Act, 1997, is to deal with nothing more than privatization.

8:10

Let me get to vital statistics before I run down to my office and get my amendments photocopied, 90 if I'm not mistaken. I think there is a very serious issue of privacy here. We have an Act in Alberta called the freedom of information and protection of personal privacy Act. The protection of personal privacy Act seems to mean nothing, zip, zero, zilch to this government. What they want to do is they want to be regulation, meaning by cabinet order, decide which organizations will come under freedom of information, but by God, when it comes to protecting your personal privacy, money comes first, the almighty dollar. That's what this section of this Bill is about. They're going to privatize vital statistics. That means that a number of organizations can have information about you.

Now, I don't care who knows information about me. I've always said that with me, with Pam, what you see is what you get; I gots nothin' to hide. But, for example, if I were wanting to cash in on, let's say, a private insurance offering, you know, a life insurance offering, whatever, do I want that information going through vital statistics through a private, for-profit organization? I can tell you right now: no, I do not. No, I do not.

DR. TAYLOR: I misunderstood you.

MS BARRETT: I'm sorry; I can't remember your riding, Lorne.

DR. TAYLOR: Cypress-Medicine Hat.

Chairman's Ruling Decorum

THE DEPUTY CHAIRMAN: Hon. members, if the hon. Member for Cypress-Medicine Hat wishes to speak after you have, hon. member, well, I'll be glad to put him on the speaking list. It is imperative, members of the Assembly, that the Table

officers and myself are able to hear this debate. I would ask: if you have private conversations, if you would take them out of the Assembly, I would appreciate that.

Go ahead, hon. member.

MS BARRETT: Madam Chairman, I have no problem with the cut and thrust of debate in the Legislature. Honestly. I mean, I appreciate what you're saying, but the Member for Cypress-Medicine Hat was just having fun, and that's what we do, and I have a good spirit about it. He was joking, saying: "Yes, that must be what the Member for Edmonton-Highlands wants." Well, to clarify to the Member for Cypress-Medicine Hat: n-o. Which part of no do you not understand?

Debate Continued

MS BARRETT: Vital statistics are private information. I don't care if anybody knows on what day I got married, and I can tell you, the entire world will know the day I get divorced, because there's going to be a big party at my house. [some applause] Thank you. You've got that right. [interjections] Ah, the Government House Leader's sense of humour is working tonight as well. I'll tell you what: I'll invite the Government House Leader even though he is a lawyer. I'll never marry a lawyer again; okay?

Vital statistics are important to individuals as consumers and as people who want to conduct their lives in private and have the right by law, by federal law, to conduct their lives in private. Privatization of vital statistics exposes consumers, individuals, society members to the risk that information about them can become public. We have seen the way when government, for example, downloads computers, old computers – give me one; I need one. The Government House Leader isn't listening to me. I need a computer, me, moi. Give me one of those old computers that the government has downloaded. I'll take a 286; I'll take anything. The important thing is: make sure that there is no government information on there. At least one has the right to question a minister responsible if private information is sent out on a government computer that is being sold to the public.

The government, when it privatizes a service, just like it has done with respect to, for example, regional health authorities, places a layer of insulation between itself and the deliverer of the service and says: "Don't ask me. Ask your regional health authority why something's gone wrong." When they privatize, I know that they'll say: oh, yes, we will be responsible. I remember Bill 54. I read Bill 54 the day it was introduced, and it wasn't until six days later that questions were raised about it in this Legislature. I didn't write a column about it deliberately, didn't do a TV show about it deliberately, because I thought it would get raised in the Legislature. It took six days for that to happen. That Bill was clear. The government was not going to be responsible for any of the actions, inactions, or negligence of any privatized service even though it was going to foot the bill using taxpayers' dollars. So the government may try to comfort Albertans tonight by saying: "Don't worry. We will be responsible. If anybody makes a mistake and information about your vital statistics is released inadvertently by way of our sale of a computer or a diskette that goes missing, well, we'll be responsible." Yeah, and then they can go and change it by regulation.

It is for these reasons, Madam Chairman, that I oppose this Bill, and provided I get an opportunity, I will be back momentarily to sponsor amendments that will change this legislation. I hope the government will understand that it is not just ideology

speaking here. I am speaking on behalf of the consumers of this province and people who need protection against their own information. That, after all, is supposed to be the essence of the Freedom of Information and Protection – I underline “protection” – of Privacy Act.

I'll be back in a minute. Thank you, Madam Chairman.

THE DEPUTY CHAIRMAN: Hon. Member for Edmonton-Highlands, you will be allowed to speak again.

Edmonton-Centre is standing. The hon. Member for Edmonton-Centre.

MS BLAKEMAN: Thank you. I want to thank you for the opportunity to speak in committee to Bill 11, the Registries Statutes Amendment Act, 1997. Specifically I want to look at the section amending the Vital Statistics Act. I have a very specific reason for this. Recently I was at a meeting for a pilot project that they're looking at starting between the federal government and the provinces. It's a very good project. It's very worth while. If I'm understanding this Bill right, this is moving vital statistics on its way to privatization by any other word. I think this damages the possibilities of any kind of federal/provincial joint project where vital statistics would come into play on any of this.

Specifically, this pilot project is for secure name changes and relocations for women and their children who are under threat of death by a spouse or an ex-spouse. They have need of, essentially, a witness protection program. Although they are not specifically a witness in this case, they need a secure name change and relocation. Now, obviously this calls into play all of the various vital statistics components. They would need a new driver's licence, health care card, banking, and most specifically, a new birth certificate, from which all other identification in this culture of ours springs. These must be done. Currently they are done manually. An employee from the vital statistics department is entrusted with these secure name changes, and we do have a number of them done in the province every year on request of the RCMP or other legal bodies who are asking for secure name changes, reissuance of birth certificates, et cetera. They're done manually by one staff person. That way they can make sure that this is kept secure. People's lives depend on this. This is not something done lightly. It's done very carefully with the recognition that people's lives do hang in the balance on this.

We're looking at a federal/provincial pilot project to do with this secure name change. When I mentioned that this Bill was being debated in the Legislature at this time, of course there was absolute shock in the room because this kind of project would not be possible if we have all of this information on a variety of computers around the city and around the province. There's no way to guarantee a secure name change or a secure change of any kind of information that would fall under the Vital Statistics Act.

[Mr. Tannas in the Chair]

I think this is something serious, and I don't know why it wasn't considered prior to this kind of initiative coming forward. I'm sure this isn't the only example that we could find without looking too hard where vital statistics need to be really carefully controlled. I've heard people say: well, the computers will have different levels of security built into them so that the private operators can only access certain banks of information or certain levels of secure information. I guess if this were a better world,

I'd believe that, but I don't and neither does anyone else out there. None of us trust electronic data keeping. There have been too many examples of computers being sold with data banks still in them, of diskettes turning up on the street, plus the possibilities that we're aware can occur through hackers getting access to the systems.

8:20

In this particular instance that I bring forward to you, people's lives are hanging in the balance on this one. People could die from this. I think it's serious enough to take another look at what we're trying to do here and be aware that there are a number of other examples where this could really affect the privatization of vital statistics and the keeping of information. That is just one concern that I have, but I wanted to speak to it specifically, and I'm sure my learned colleague is ready to follow me. So I will leave that with you.

I hope that the minister sponsoring this Bill can address this and can come up with other ways to protect the information about people that is kept in the registries, reconsider this privatization move, and look to other ways in which we can have federal/provincial projects of the type that I described move forward on a positive basis rather than having Alberta dropped out of these kinds of projects.

Thank you very much for the opportunity to speak to this.

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

MR. SAPERS: Thanks, Mr. Chairman. Would this be the opportunity to comment on that rosy glow? No, I guess it wouldn't be. All right.

THE CHAIRMAN: Try that again.

MR. SAPERS: It's all right, Mr. Chairman. We'll talk later. But I want it clear that I'm not trying to drag out proceedings; that's all.

Mr. Chairman, we are faced with one of these omnibus Bills here in committee. We've had some considerable debate in this House already about the danger of omnibus Bills, the fact that Bills such as this don't have a single principle, the fact that they tend to amend in a substantive way more than one statute. [interjection]

THE CHAIRMAN: Hon. minister, I'll put you down as a speaker here in the order. Good.

Edmonton-Glenora.

MR. SAPERS: Thanks, Mr. Chairman. I appreciate that. The issue at committee with Bill 11 is that you're dealing in essence with a number of different statutes: first, as we've said, the Builders' Lien Act, then the Government Organization Act, followed by the Vital Statistics Act. [interjections] In each case there are very substantive amendments, and in each case these amendments . . .

THE CHAIRMAN: Order. Hon. minister, Calgary-Buffalo, you'll have your turn when your name comes up on the roster here, but in the meantime we have Edmonton-Glenora, and we're all listening with bated breath.

Edmonton-Glenora, without interruption from other hon. members.

MR. SAPERS: Thank you, Mr. Chairman. So this Bill is the first in what will be a parade of omnibus Bills before committee tonight. There is no point in revisiting the arguments made about the need to separate these Bills into their constituent parts. However, if it were in my power to do so – and I am waiting with bated breath for the Speaker's instruction on how one would bring notice to the Assembly to do that – I would be moving an amendment that would separate this Bill so that we could deal with it efficiently.

Instead we are left with the inefficient mechanism of having to deal with a number of unrelated statutes which beg for a number of unrelated amendments, which creates no end of trouble for the Assembly, no end of trouble for the Table officers. The Clerk is ready to retire, Parliamentary Counsel are on the verge of resignation, and I understand that the Speaker himself has developed more gray hair. So, Mr. Chairman, the danger of omnibus legislation is certainly clear to the Table if not to the Assembly and the people of Alberta.

I'm waiting for Parliamentary Counsel to return with the amendments. As we have been under the threat of an amendment from the Member for Edmonton-Highlands, it is my intent to ensure that at least four amendments are brought forward. The first one would deal with the proposed changes to the Builders' Lien Act. The second amendment will deal with regulations that are contemplated under changes to the Government Organization Act. The third amendment would deal with the impact of the vital statistics changes on the privacy and confidentiality of Albertans. The fourth amendment would deal, again, with the Government Organization Act.

I submit, Mr. Chairman, to all members of the Assembly that this will be a fruitful debate. It'll be a debate that will in some ways make the legislation more palatable, but in many ways I would have to agree with some members of the government who were saying that this is getting to be tedious. I agree with them. In some ways these amendments should never have to be brought forward in this way. It is absolutely an inappropriate mechanism to deal with such substantive amendments by packaging them all together into a Bill such as Bill 11, the Registries Statutes Amendment Act.

The issue at hand is: what is the best way to make law in the province of Alberta, and then secondarily, what do we find ourselves presented with in Bill 11? Clearly not the best way to do business in this House. I'm hoping that the amendments will gain speedy passage so that then we can continue with debate at committee stage on the whole Bill as amended and then move it on to third reading for summarizing comments and then off to Royal Assent if members of the House feel that it's deserving of that.

So, Mr. Chairman, with that cautionary tale being told to the Assembly, I await the introduction of the amendments and anticipate some vigorous debate. Thank you.

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

MS BARRETT: Thank you, Mr. Chairman. I was just having a conversation with a former colleague of mine from the Assembly who thought that I used to speak for long periods of time during debate. I had to remind him that that's not true. I actually speak very briefly; I just speak often.

I'm prepared to move amendments which are now being distributed to the House. I was looking forward to the Official Opposition amendments first; I understand the order of precedence

in this Assembly. A couple of them are still under consideration by Parliamentary Counsel, understandably, so the amendments that I would like to move now are under the Builders' Lien Act, by striking out section 1. That effectively deletes the changing of the formula from 15 to 10 percent.

THE CHAIRMAN: The Chairman would like to indicate to everyone that this amendment to Bill 11 as proposed by the hon. Member for Edmonton-Highlands will be known as amendment A1. Hopefully, pages, we would just ask you to first of all hand them out to the people that are actually sitting in the seats, and then you can fill in the blanks after that.

MS BARRETT: Good point. Thank you.

Mr. Chairman, if you'll just guide me then. You would like the first of my amendments to be called A1. That basically would return the builders' lien responsibility to 15 percent from 10 percent. So we call that A1.

Now, under the Government Organization Act, I'm proposing an amendment to section 2(3)(a), (b), and (c). Do you want that to be called a separate number?

8:30

THE CHAIRMAN: Yes, I do. If you've got it on a separate sheet, hon. member, I think it's easier. The hon. Member for Edmonton-Glenora was talking about some amendments that he hoped to bring, but once we start into amendments, let's have only one at a time.

MS BARRETT: Sure. No problem, Mr. Chairman. It's amazing how an ancient institution like a parliament can change so much in four years. I'm really surprised.

THE CHAIRMAN: Right. A1, let's go.

MS BARRETT: A1. Let's go. This amendment I am proposing in the interest of consumers, those who are building homes, in particular, but they might be building commercial properties. I believe that consumers have the right to protection against those who would either by accident or wantonly rip them off or run away with the difference between what they had paid their subcontractors and what they had been paid by the contractor.

I think this is a good amendment. My discussion with the Member for Edmonton-Manning indicated that. He showed me his amendments and I showed him the ones that I was proposing, and it looks like we're both proposing a similar amendment on this section of the Bill.

Thank you, Mr. Chairman.

THE CHAIRMAN: On amendment A1, the hon. Member for Edmonton-Glenora.

MR. SAPERS: Yeah. Thank you, Mr. Chairman. Amendment A1 effectively would delete all of section 1, all references to the Builders' Lien Act, and I am absolutely in favour of that.

Now it's been reported that there are differences between the Official Opposition and the third party in this Chamber, and those differences are real. However, there are also some similarities, and what both opposition parties are about in this House is to help the government do its job better and to point out to Albertans the folly of some government activity.

In this particular instance, this amendment is the right thing to do. The Builders' Lien Act should never have been included in

this bundled Bill. The Builders' Lien Act should not be amended in this piecemeal way. In fact, there are several deficiencies with the current Builders' Lien Act in this province, and those deficiencies need to have a full and complete public discussion. Then the government needs to live up to its responsibility for bringing in one solid Bill dealing with the Builders' Lien Act, titled the Builders' Lien Amendment Act, so that all Albertans can be aware that it is the intent of the government to change the law. Then we can have a robust debate in this Assembly regarding matters to do with the builders' lien instead of this sort of piecemeal, incremental debate where we have to scratch and claw time out of the order of business in this Assembly to deal with what are in fact a number of very substantial amendments.

So I'm pleased to support the amendment by the Member for Edmonton-Highlands to amend Bill 11. I would note that if it wasn't A1 tabled by that member, it certainly would have been amendment A1 tabled by the Member for Edmonton-Manning. This is an example of where we're on the same page, Mr. Chairman, and I would urge very quick passage of this amendment so that we can get on with dealing with the rest of the Bill.

There has not been one contact that I have made regarding the proposed changes to the Builders' Lien Act regarding the amount of holdback that has convinced me that this is a good idea or a wanted idea. Albertans clearly are not in favour of this proposed government action, and I think the government ought to respond accordingly.

Thank you.

[Motion on amendment A1 lost]

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

MS BARRETT: Thank you, Mr. Chairman. The second set of amendments that I propose – and I'm not sure I will have all the co-operation of the Official Opposition on this – is with respect to the Government Organization Act. How do you want to number this, Mr. Chairman? Do you want this as A2? There are three components. Do you want this to be known as A2?

THE CHAIRMAN: It is A2. Yes.

MS BARRETT: All right; we'll subtitle this A2. This amendment basically says “or other person,” the implication of which is that only persons who are employed by the government or its direct agencies would be those who could carry out the responsibilities under the Government Organization Act. That's the first of the series of proposals.

The other two striking out sections that I'm referring to – (b) in the proposed section 6.1 by striking out subsection (4), and (c) by striking out the proposed section 6.2 – essentially would mean that the government under its Government Organization Act would not have the ability by regulation, order in council, or basically cabinet decision to privatize anything that it wants.

Now, I realize there may be some limitation of scope in this regard, but the Government Organization Act, which was introduced a couple of years ago, three years ago I believe – '95? '94? Yes. So three years ago – was pretty broad-sweeping. I have some familiarity with this government. If it can interpret powers greater than that which it truly has, it will. So my argument is that there is no reason to privatize government services under the Government Organization Act. Therefore, we shouldn't.

The Official Opposition is here. They don't know what I'm going to be bringing up in the next couple of days, but I do have proof that private, for-profit is nowhere near as efficient as the public system. Therefore, I ask members of the Assembly to support this amendment, including members of the Official Opposition.

Thank you.

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

MR. SAPERS: Thanks, Mr. Chairman. This is a difficult amendment, and I know that all members are following it closely. What we're really left with here are three very different kinds of amendments. Perhaps the member for Highlands-Beverly will be able to clarify . . . [interjection] Highlands? It's just Highlands now? My apologies. I just keep thinking of my friend Alice.

Now, the issue that I have is not so much with clause (a) in your amendment or clause (b) in your amendment but particularly with clause (c) in your amendment, the clause which reads “By striking out the proposed section 6.2.” Now, as I read 6.2 – and I must tell you that this caught my eye earlier, and at first it raised an alarm, and then I sort of was satisfied that it wasn't as bad as I had originally thought it might be. I'll just share with you quickly, through the Chair, my thinking to see whether or not this is the direction you were going in and whether or not you want to remove clause (c) from your amendment.

Right now the existing legislation permits delegated authority to be given by a “statutory officer,” in most cases the deputy head of the department, to somebody else. The real change in 6.2 appears to be that the delegated authority can be given a third time to a nonemployee. But what then happens in 6.2(b) is that that delegated authority is then reined back in, permitting the minister to override the discretion of either the statutory officer or the nonemployee.

Now, one of the things that I was very concerned about is this government's propensity to move away from ministerial responsibility in a whole range of affairs. In fact, this government has made it very clear that they would like to govern by order in council and by delegated authority. What happens is that that removes the Legislative Assembly from the equation. What it means is that they think it's their job in Executive Council to set all of the policy for the people of Alberta, that the Legislature is just an inconvenience that has to be dealt with once or twice a year, and that they don't expect or even enjoy debate. In fact, they quite see it as a nuisance.

8:40

I certainly share your concern that this is this government's true method of doing business: order in council, behind-closed-door decision-making, and then delegating whenever possible to some corporate entity, usually chosen not on the basis of ability but on the basis of their relationship with powerful members of the Conservative Party. I share that. But I would have to say that it brought a smile to my face to see subclause (b), because while they're in the business of giving away all of this authority, while they're in the business of marginalizing the Legislative Assembly and the debate that would happen in this Chamber, and while they're in the business of keeping Albertans in the dark while they're making decisions in their oak-paneled rooms, in this Bill, at least, they bring it back in, and they say: but the minister, at least, should know that it's the minister's job to control this discretion. So that's why I would pull that.

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

MS BARRETT: Thank you, Mr. Chairman. The Member for Edmonton-Glenora makes a good and cogent argument. Yes, I did give that argument some thought. I'm going to, with respect, disagree with the member, because I believe that this section still allows for the delegation of delegation of powers, and that offers a further insularity from the government.

However, if I could enjoy the support of the Official Opposition on this amendment by removing this, I will, because my observations are already on record. So if the Official Opposition members will support the rest of my amendment on this, I will happily withdraw it. Otherwise, we'll just have a split vote. It really doesn't matter at this point. What do you say? Do you want me to withdraw it? I will.

My objections are noted, Mr. Chairman. I move to withdraw my proposal numbered (c), "By striking out the proposed section 6.2." The members of the two opposition caucuses have taken different positions on this. I would rather that my basic amendment pass than fail utterly.

Thank you, Mr. Chairman, and thank you, members of the Official Opposition.

THE CHAIRMAN: Hon. member, it's certainly my understanding that if you're going to withdraw, you'd have to withdraw the whole of A2, or someone else could make a subamendment to strike out . . .

MR. SAPERS: With lightning speed, Mr. Chairman, I'm prepared to do that.

MS BARRETT: Do you need a subamendment in writing now still?

THE CHAIRMAN: No.

MS BARRETT: Good.

THE CHAIRMAN: We have then for the consideration of the committee a subamendment as proposed by the hon. Member for Edmonton-Glenora that . . .

MR. SAPERS: . . . amendment A2 be amended by striking out subclause (c): "By striking out the proposed section 6.2."

MS BARRETT: Agreed. Agreed.

[Motion on amendment A2 as amended lost]

THE CHAIRMAN: The hon. Member for Edmonton-Highlands on A3.

MS BARRETT: Thank you, Mr. Chairman. It's a pity that the government is so determined on privatizing public services. It's as if it wants to get out of the business . . . Oh, yes. Sorry. Thank you. I'd better move this amendment before I speak to it, hadn't I?

Mr. Chairman, I move that under the Vital Statistics Act contained in Bill 11, we strike section 3 altogether.

Now, in support of this amendment. I can't believe that the government is so determined on a ideological basis and not on a factual or empirical basis to get out of the business of governing,

to use taxpayers' dollars to pay for private, for-profit corporations to deliver services for which the taxpayers are already paying and for which the taxpayers also need to pay additional user fees, which I call a tax by any other name. You know, the government has even had the chutzpah to introduce draft legislation to say that except for many flimsy circumstances, no tax increase shall be allowed without a referendum, but they haven't talked about the hundreds – and I'm not joking; hundreds – of user fee increases that Albertans have suffered in the last four years. Those are taxes.

I mean, a government member in question period recently raised the problem of: why are local taxes coming up? The Municipal Affairs minister kind of sputtered her way through an answer about: you know, well, mill rates blah-blah change and something else didn't change blah-blah.

They're all excuses for the fact that this government – and even though I want my brethren in the Official Opposition to vote for me, the federal government, both the previous Conservative government and the previous and current Liberal governments have also downloaded responsibilities onto provinces, which in turn have down . . . Well, with the exception of Alberta because this is the government that originally initiated downloading responsibilities to the municipalities, the result of which was that individuals had to pay more to receive the same services that their tax dollars had initially funded. Now they want to do this in vital statistics. And I speak on behalf of the right to protection of privacy of all Albertans and perhaps Canadians, if any other government, like the Mike Harris government in Toronto – I must be a rocket scientist figuring out that he'll want to copy this legislation – would want to imitate. It's dangerous, it's unprecedented, but most importantly, Mr. Chairman, it is unnecessary.

I realize that I'm probably more effective at lobbying individual government ministers than I am at making my case in the Legislature, even though, as some members in the front benches will know, I've made my case again and again and again here. Sometimes I win; sometimes I lose. This time I ask the members of the government: please consider this amendment. If you want to bring something back later on, let's have some discussion, some public discussion. In the meantime, please, please support this amendment. Consumers' rights. Individuals' rights. In fact, let me remind you: we don't have a human rights protection act in this province; we've got an Individual's Rights Protection Act. I disagree with that. I think we should have a human rights. This is the government that brought in the Individual's Rights Protection Act. In this case we are talking about protecting the rights of every individual in Alberta. I believe that the members of the Official Opposition will be supporting this amendment. I ask government members: please vote with us on this.

THE CHAIRMAN: This amendment is going to be called A3, and we have next to speak to it the hon. Member for Calgary-Bow.

MRS. LAING: Thank you, Mr. Chairman. Under this vital statistics section 3, we are not talking about opening the entire system. We're talking about restricting it to certain functions. The whole point of this reorganization is to make it more efficient and more consumer friendly and to avoid duplication.

It could be that you would appoint a funeral director. Now, the funeral director today has to go to the hospital, he has to get the death certificate, he goes to see the coroner perhaps: he does a lot of running around. He comes back and gets information from the family, he adds that, he may have to take a completed form back

to the hospital, and then he goes to the registrar's office. By being able to complete the registration from his own office on his computer directly to the main registry, this saves, I would think, money for the consumers, it would save time, it's more efficient, avoids duplication, and I think is a much smoother, more efficient and effective way to do the business.

Thank you.

8:50

THE CHAIRMAN: Are you ready for the question? We have then for our consideration amendment A . . .

MR. DICKSON: I'm sorry, Mr. Chairman; I wasn't quite fast enough. That's fine, I'll make my observations later.

[Motion on amendment A3 lost]

MR. GIBBONS: Mr. Chairman, I have an amendment to hand in. It is an amendment of Bill 11, registries statutes, and I'd ask to submit this.

THE CHAIRMAN: We'll just take a moment. This amendment will be known as A1 – pardon me, A4. I can't count.

The hon. Leader of Her Majesty's Loyal Opposition.

MR. MITCHELL: Thank you. I wonder if we could revert to introduction of guests for a minute.

THE CHAIRMAN: While we're waiting, I wonder if we might briefly revert to the introduction of guests. All those in support of this motion, please say aye.

HON. MEMBERS: Aye.

THE CHAIRMAN: Those opposed, please say no.

The hon. Leader of the Opposition. The hon. Member for Edmonton-Glenora.

head: **Introduction of Guests**

MR. SAPERS: Thanks, Mr. Chairman. We were just arguing over whose pleasure it would be to introduce to you and through you and particularly to their father, who unfortunately doesn't get a chance to see them often enough, two young visitors we have in the gallery this evening just so they can go home and tell mom that dad was at work tonight. Joining us today to check proceedings would be Lucas and Liam Mitchell. I would ask them to please stand and receive the warm welcome of this Assembly, and also our thanks for sharing their dad with us all.

Bill 11
Registries Statutes Amendment Act, 1997
(continued)

THE CHAIRMAN: I think everybody now has received a copy of the hon. Member for Edmonton-Manning's amendment, A4.

Hon. member.

MR. GIBBONS: Mr. Chairman, I move that Bill 11 be amended in section 2(4)(c) by striking out (2)(b)(ii).

Speaking to it, I think it's simply outrageous that they have a clause in the Bill that allows regulations to overrule the wishes of the duly elected Assembly.

Thank you.

THE CHAIRMAN: Hon. member, I'm sorry. There seems to be a bit of a mis-shuffle here. The amendment that I have is that you were going to "move that Bill 11 be amended in Section 2(5) by adding the following after the proposed section 10.1." So we just have a bit of a shuffle here. We'd better have the same one as the Chair has.

The one that presumably everybody has is the one that is moved by yourself amending section 2(5). That's known as amendment A4. Is that agreed?

MR. GIBBONS: Okay. There's too many of them here. There's three of them.

THE CHAIRMAN: That's okay.

MR. GIBBONS: The one we're putting through as A4: "move that Bill 11 be amended in section 2(5) by adding the following after the proposed Section 10.1." Okay?

THE CHAIRMAN: Yup. Good.

MR. GIBBONS: Then

10.2 The Information and Privacy Commissioner must conduct a privacy impact analysis, the format of which will be determined by the Office of the Information and Privacy Commissioner, for each registry designated as a designated registry by the Minister:

(a) One year after the proclamation of the Registries Statutes Amendment Act, 1997

and

(b) Every second year following the first privacy impact analysis.

Thank you.

THE CHAIRMAN: The hon. Member for Calgary-Buffalo on amendment A4.

MR. DICKSON: Thanks very much, Mr. Chairman.

MR. HAVELOCK: Try and do it in five minutes.

MR. DICKSON: Just in response to the Justice Minister, because I know that he knows what I'm going to say. I'm going to be able to say it in a whole lot less than 20 minutes.

One of the really important duties or responsibilities of our freedom of information commissioner – for whom the Minister of Justice certainly can take some considerable responsibility that we have the office. It was that current Justice minister who certainly was anxious to make sure that the Information Commissioner had a very broad and expansive array of powers, and one of those powers is to be able to do privacy impact assessments. What's interesting in this province: we really haven't seen that power used.

There had been a commitment from the previous Minister of Health which had been, for example, that there would be a privacy impact assessment, Mr. Chairman, before we went with a health information program, the sort of thing the government was looking at at the time. Whether it involved smart cards or other kinds of personal identifiers, there would be an assessment to determine whether the government program was appropriate, whether it adequately respected and protected the privacy rights of individual Albertans and whether it was a measured, moderate kind of intrusion or whether it exceeded what was reasonable. I think we operate on the principle that if there's an intrusion into

the privacy of Albertans, it should be minimal and it can only be warranted if there is some demonstrable public good offsetting that sort of encroachment.

What this amendment would do is to require a privacy impact analysis, the format of which will be determined by the . . . Commissioner, for each registry designated as a designated registry by the Minister.

There are two times this would happen: firstly, "one year after the proclamation," and then, "every second year following" the initial impact assessment.

This is important, Mr. Chairman, because what happens in this province now is that the only assessment is done by people in the same government department that has already received instructions from the minister to privatize wherever possible and basically move out as many government functions as possible to the friends of government in the private sector: an offensive proposition to be sure. But recognizing that the government has the numbers to do whatever ultimately they wish and recognizing their very sorry past history of trampling over the individual rights and privacy interests of individual Albertans, this is an important mitigating element which, if accepted, at least would provide a modicum of protection.

What's interesting here is it's just the assessment. There is, then, a secondary question in terms of what happens when the assessment determines that in fact there has been an unreasonable encroachment of privacy protection of individual Albertans, but the start is getting the information, Mr. Chairman, and what this amendment does is certainly enable that to happen. So I think the Information Commissioner under section 51 has the power to do it. He's got the resources and the people in his office to do it. It's part of his mandate. It would seem to me that the only problem may be because the government insists on the commissioner wearing two hats. It's always tough for him to find the time to do these other things coming up, but this is, I think, a very creative suggestion by my colleague. I support it without reservation and encourage every member in the Assembly to support this amendment as well.

Thank you.

9:00

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

MR. SAPERS: Thanks, Mr. Chairman. The Bill before us, Bill 11, in part talks about – I believe it's the Government Organization Act proposed changes, although it's so hard to tell – document handling procedures. Albertans have already made very, very clear their concerns regarding personal privacy and particularly concerns about the privacy of information held by government.

The proposed current section 10.1(1) reads:

In this section, "document handling procedures" includes matters dealt with under section 9(2)(c) and (d).

(2) Where

- (a) an enactment under which a registry operates provides for document handling procedures, and
- (b) a regulation is made under section 9(2) governing those document handling procedures.

It goes on to say:

Any document or information that is dealt with in accordance with the document handling procedures provided for in that regulation has the same force and effect as if the document or information had been dealt with in accordance with the document handling procedures provided for in the enactment under which the registry operates.

Mr. Chairman, the reason for me reading that rather tediously into the record directly from the Bill is that it talks specifically to the need for a privacy audit. What you're dealing with here is statutory authority under which a registry operates, under which that registry will collect information and then proceed to handle documents to distribute information, to store that information. With the proliferation of registries how are Albertans to be guaranteed that information is being collected in a way they can have a sense of confidence in, that it's being stored in such a way that we know it is secure, that the information is being transmitted in such a way, potentially to third and fourth parties, that confidentiality will not be breached? What is the best way to ensure that if not by using the legislative office to which this Assembly just last evening by passing a motion resolved to hire somebody and appoint for a five-year period?

We have a legislative officer whose job it is to protect the privacy of Albertans, whose mandate it is to ensure that government-held information is not abused and that the confidence that Albertans place in their government institutions is upheld. I am frankly disappointed that the mover of Bill 11, the Member for Calgary-Bow, didn't insist that this section, our proposed amendment by my colleague from Edmonton-Manning, wasn't part of the Bill anyway.

I suspect that had the government organization amendments being proposed in the Registries Statutes Amendments Act, known as Bill 11, been introduced into this Chamber as a stand-alone Bill because of its substantive nature, the Member for Calgary-Bow would have insisted that it be more complete, would have seen the deficiencies in it instead of it being sort of crammed here in the middle of Bill 11, and no doubt we would have seen reference made to the necessity of a privacy impact analysis embodied in the proposed statute.

So here we are again struggling because of this propensity of the government to try to enforce a whole bunch of things, a whole bunch of square documents into round holes. I don't know how else to describe these Bills. We're forced with having to rather labouriously go through these Bills, sort of decompress them and then insert meaningful amendments to make them operable, to make them serve the best interests of Albertans.

The amendment before us is a very, very straightforward one and one that will enjoy the instant approval of constituents in all parts of this province. Even in the Minister of Environmental Protection's constituency I know that people are concerned about privacy and confidentiality. I know that the minister, who once upon a time in his previous life, before he was a cabinet minister, chaired an all-party committee on which I had the privilege of serving which studied privacy and confidentiality issues. I know that that member took seriously – in fact both he and the Member for Peace River would often question people about their privacy concerns. Privacy concerns weren't always brought to the table, so they would draw out questions specifically regarding privacy concerns.

I know that they are interested in privacy, and I take them at their word that they are committed to protecting the privacy of Albertans. So I know that they will support this amendment, and if they don't, they're going to have some explaining to do, I would suggest, Mr. Chairman, because just a few short years ago they spoke up loudly in support of privacy. Why would they be any less committed to privacy now? I wouldn't suggest it's because, you know, that was then and this is now, meaning that they were both backbenchers then and now one's a member of the inner sanctum in cabinet. I'd never make that suggestion.

So I'm going to invite all members of the Assembly who are here and paying attention tonight to support this amendment which would ask the Privacy Commissioner to do his job, serve the people of Alberta, and do an impact analysis on the proposed changes to the Government Organization Act.

THE CHAIRMAN: The hon. leader of the ND opposition.

MS BARRETT: Thank you, Mr. Chairman. Given the amendment that I proposed which basically would prevent privatization altogether, I believe that the amendment in front of us is a very good second place. That is what I had talked about as the importance from the consumer perspective of maintaining privacy, that the persons involved have the right to retain information about themselves in a way that would not put them at risk of public exposure inadvertently or otherwise, although I must say that if that exposure were to occur, I believe it would be inadvertent and not deliberate.

I believe that this amendment is actually a nonpartisan amendment. I can't see why the government wouldn't support this. Sometimes I find it useful to be a bridge with government to encourage them to think another way. Right now what I'm going to ask the government members here to do is understand that even though it looks like they're going to get the legislation that they want against my wishes, against the Member for Edmonton-Strathcona's wishes, and apparently against the Official Opposition's desires – it looks like that's going to happen. Let me offer the assurance that with this amendment the government still gets its wish, but potential problems are mitigated. It's no big onerous deal for the Privacy Commissioner to conduct an impact analysis one year after proclamation and every second year after doing so. What's the big deal?

I'll tell you what, Mr. Chairman. If the government will believe me on this, and the Privacy Commissioner tomorrow says, "No, I don't want that job," I'll happily come back in here and reverse my vote. I don't think he would say that. I think that the Privacy Commissioner takes his job seriously and would want to do this. If he didn't want to, I would wonder why he would want that job, and he has just been reappointed to that job. Therefore, Mr. Chairman, I will support this amendment, and I ask all members of the Assembly to follow suit.

[Motion on amendment A4 lost]

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

MR. GIBBONS: Yes, Mr. Chairman. I have another amendment that is being passed out which is called A5.

THE CHAIRMAN: This one amends what?

MR. GIBBONS: This is 2(4)(c). This one-line item.

9:10

THE CHAIRMAN: Okay. Yeah, please hand it out, and then it will be known as A5. If you want to just briefly describe it, then we'll wait a moment.

MR. GIBBONS: To move that Bill 11 be amended in section 2(4)(c) by striking out clause 2(b)(ii).

THE CHAIRMAN: No. We're not on that one, hon. member. The one that I have is that you would move that Bill 11 be

amended by adding the following after section 2(4). Then it says: "(4.1) The following is added after section 9." Are we on the same amendment?

MR. GIBBONS: Okay. I'll take that one. Yeah, that's the one they're handing out. We'll call that A5.

THE CHAIRMAN: Okay. Let's just make sure. Is that the one you have? Good. This will be known as A5. Just wait a minute until we all get it. Does everyone have this now, this amendment A5? Okay.

Hon. Member for Edmonton-Manning, would you proceed.

MR. GIBBONS: Thank you, Mr. Chairman. I'd like to move that Bill 11 be amended by adding the following after section 2(4):

(4.1) The following is added after section 9:

(9.1)(1) In this section, "Standing Committee" means the Standing Committee of the Legislative Assembly on Law and Regulations.

(2) Where the Minister proposes to make a regulation pursuant to section 9, the Minister shall cause to be forwarded to the Standing Committee a copy of the proposed regulation.

(3) On receipt by the Standing Committee of a copy of a proposed regulation pursuant to subsection (2), the Standing Committee shall examine the proposed regulation to ensure that

(a) it is consistent with the delegated authority provided in this Act

(b) it is necessarily incidental to the purpose of this Act, and

(c) it is reasonable in terms of efficiently achieving the objective of this Act.

(4) When the proposed regulation has been examined as required under subsection (3), the Standing Committee shall advise the Minister that the proposed regulation has been so examined and shall indicate any matter referred to in subsection (3)(a),(b) or (c) to which, in the opinion of the Standing Committee, the attention of the Minister should be drawn.

Now, just to speak to this briefly. Mr. Chairman, the government has a Law and Regulations Committee, but it hasn't met in a lot of years. We're supposing that it's between 15 and 20 years since this committee has met. The committee is supposed to review the regulations for a Bill to comply with the intent of the law and ensure that the stakeholders who are affected by the law and regulations agreed to – to ensure that they do meet Albertans' needs.

Thank you, Mr. Chairman.

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

MR. DICKSON: Thanks, Mr. Chairman. I saw you eagerly looking for a new speaker, a different speaker, but I'm sure others will be heard on this important amendment.

It's often been said that in this building we find too often the government taking one side of a question this year and then next year, next session, taking the opposite position. Members should find it refreshing that at least this caucus has very consistently said that subordinate lawmaking – whether it's orders in council, ordinary regulations, in this case even ministerial regulations – should be subject to some kind of all-party review before it becomes law.

It was about 20 years ago in this province, actually maybe a little less than 20 years ago, that the then Conservative government struck a committee, Mr. Chairman. This was a select committee that looked at how we should deal with regulations in this province. They went to a great deal of difficulty in terms of

consulting some of the most senior people in this province. They talked to senior lawyers, judges. They heard submissions on how regulations are handled in Ontario and Quebec and Nova Scotia and other jurisdictions across Canada, and they came up in their report with a model regulations Act and a model plan in terms of how regulations could be reviewed, discussed, and how they would become law. The government of the day, to its credit, accepted almost all of the major recommendations from that report. The one major exception was that they refused to act on the recommendation that a standing committee on law and regulations should be appointed after every election and should be mandated to review all regulations proposed by ministers of the Crown.

Now, in fact nothing was done for a while. The government then created the Standing Committee on Law and Regulations, but the committee has never met – at least hasn't met in over 13 years. So what happens is that when a statute is passed in this place, that's the last that members in the Assembly see of it until we read *Alberta Gazette* in our constituency offices several months down the road. There's no opportunity to say: "Hold it. We've got an empire-building deputy minister in a given department who has run amok and is busy expanding a whole series of laws and regulations that exceed, go beyond what the statute was supposed to cover, go beyond what was initially contemplated." That's the reason why it was important to have that kind of an oversight committee.

Mr. Chairman, almost every parliamentary jurisdiction in Canada, the U.K., Australia, New Zealand has that kind of a system. Some of them are progressive enough that in fact the regulations come and have to be vetted in draft form even before they become law. There are a number of federal statutes where regulations have to be published in draft form before they become law. What a refreshing change that would be. The reason is that we pass in this province about 600 or 700 regulations a year. That's an enormous volume of lawmaking, and however well intentioned the Member for Peace River is in chairing – what do we call it? – the Regulatory Reform Task Force, it's not enough. The point is that they only consult with some designated stakeholders. There's no consultation with the broader public. That would happen if in fact you had all-party representation on an oversight committee.

I expect that we will be as vigorous and diligent in this Legislature in terms of pressing this kind of an amendment in this way not only on Bill 11 but on other statutes that come in that don't address regulation and lawmaking, and I anticipate that we'll continue to do that until the government finally gets the message, understands how important it is.

9:20

You know, the value of having this kind of an amendment is apparent in so many different ways. In fact, in our caucus we were discussing not so long ago the government's move on May 28 in terms of the licensed practical nurse regulation. When there were concerns raised about the regulation when it was announced, what happened, Mr. Chairman, was the government said: don't worry; we've consulted the stakeholders. But when you ask who the stakeholders are and go through the kind of list that was tendered here by the Minister of Labour, what you discover is they talked to some organizations, but there was no opportunity for rank-and-file Albertans to be heard on a matter which was important to them; namely, the safety of Albertans in a clinical setting or in any other kind of health care facility.

I just use that as an example, Mr. Chairman, to underscore the

dangerous elements of secret regulation-making. If this amendment were accepted, what would happen is that all Albertans would have a window into this important kind of lawmaking before, not after, these things were done. That's when Albertans' voices ought to be heard.

When we're talking about things that are going to impact on the privacy of Albertans, when we're talking about things that are going to have an impact in major ways, what would the government possibly be afraid of, Mr. Chairman? What does the government fear in terms of this kind of a positive, constructive amendment?

I issue the same challenge that we did before the last election, when we said to the government: let's try this committee. Some members on the government side think that it's going to be cumbersome, that it's going to take too long, that it's not going to be aggressive in terms of reducing regulations. I'll make the offer to the government again, and hopefully my caucus colleagues would support this. Let's charge this committee for one year, until the spring session. I have certainly relatives in Medicine Hat and the Cypress Hills area who spend a lot of time being concerned about secret lawmaking in this province. Those people in Cypress Hills, those people in Elkwater, Alberta, and Medicine Hat and . . .

AN HON. MEMBER: Manyberries.

MR. DICKSON: Manyberries. Absolutely. People in Manyberries are particularly exercised about secret lawmaking in the province of Alberta.

We have a chance, Mr. Chairman, an opportunity here with the passage of this amendment. We can even make it time limited. We can say: let's try this out until, let's say, the commencement of the spring session of 1998. I'll wager that we'll be able to reduce the number of amendments even more aggressively than the Member for Peace River and his deregulation task force can do. Why? Because members of the opposition aren't beholden to any particular sector or any particular interest group. In fact, I think we would be surprisingly aggressive in terms of evaluating regulations to determine whether they were consistent with the delegated authority, whether they were necessarily incidental to the purpose of the Act, and if they were important in terms of efficiently achieving the objective of the Act.

If there's any member that's going to vote against this, would they be good enough to stand in their place? If the Member for Cypress-Medicine Hat is uncomfortable with this amendment, would he stand in his place before we come to a vote on this and tell me what . . .

THE CHAIRMAN: Hon. members, we appear to have three or four members standing and talking at the same time. By convention we'll only have one.

Calgary-Buffalo.

MR. DICKSON: Thanks very much, Mr. Chairman. I was just going to say that if anybody intends to vote against it, would they be good enough to stand and tell us before the vote why they think it's not appropriate to ask beforehand whether the proposed regulation is consistent with the delegated authority, why it's not appropriate to determine whether a proposed regulation is necessarily incidental to the purpose of the Act, why it's not essential that there be first a determination of whether the regulation is reasonable in terms of efficiently achieving the objectives of the Act.

Those are my points. You know, I just think that members on

the government side are going to get so tired, if they're not already, of hearing this amendment, which we bring in consistently on virtually every government Bill. Wouldn't it be easier to try a trial run until the commencement of the 1998 spring session? Let's see what we're able to do. I challenge the government to accept this offer to see what we can do in terms of screening out regulations that don't belong here.

DR. TAYLOR: You challenged me before, and I got 65 percent.

MR. DICKSON: And he'd get 85 if he accepted the challenge that I'm putting in front of him tonight, Mr. Chairman.

Mr. Chairman, those are the points that I wanted to make on this important amendment, and I hope that even those members who were here previous to March 11, 1997, will reconsider, review the stand they'd taken on this kind of amendment in the last House, and embrace the chance they have now to put the mistakes of the past behind them and to embrace the kind of openness that the Premier talks about so often.

Thanks very much, Mr. Chairman.

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

MS OLSEN: Thank you, Mr. Chairman. I, too, just want to speak to this Bill. On previous Bills I've suggested that the Law and Regulations Committee sit and that we all have an opportunity to speak on behalf of all constituents on an issue or on a proposed Bill. With the way the government at this point reviews regulations, they don't give anybody the opportunity, except a very select group of people or a person that they may in fact call a consultation. I really believe that the chair of the Law and Regulations Committee should be given an opportunity to in fact chair that committee and that we do review all of the regulations and have an opportunity to discuss them and to look at them, because that really is in fairness to all Albertans. Knowing that there's a committee that's called Law and Regulations and that it hasn't sat for 13 years, I kind of wonder why we still have it then. Is it just kind of window dressing, if you will, to the Bills and to the passing of the Bills? I think that if we're to take this whole process . . .

Chairman's Ruling Decorum

THE CHAIRMAN: Hon. members, I wonder if we could cut the discourse down certainly to below a dull roar so that we could hear the hon. Member for Edmonton-Norwood. The Chair would take the opportunity, with the Whip's permission, to invite those who wish to enter into a lively debate with their neighbour to please go out on the balcony, where it's cooler, so we can hear Edmonton-Norwood on A5.

MS OLSEN: Thank you. With that distraction I've lost track of what I was saying, so it would be really good if you could listen, hon. colleague from somewhere down south.

Debate Continued

MS OLSEN: Again, I do believe it really is incumbent upon the government to go ahead and have this committee sit and let Albertans know that the committee really has a role in the passing of Bills and in the reviewing of regulations. Just to say that you have something is very empty, as maybe some of the Bills are, but it gives us an opportunity to speak to the emptiness of some of those Bills and regulations. It would be really great and I

would really appreciate it, because I'm now a member of that committee, and before my term is up, I'd really like to have that experience to be able to improve my skills in dealing with these types of situations.

I think my colleague from Calgary-Buffalo has spoken very well to the issue. I'm sure the government will get tired of us speaking to this particular amendment, but in all fairness to all Albertans I think it's incumbent upon us as the opposition to submit this type of amendment to all Bills.

Thank you.

[Motion on amendment A5 lost]

9:30

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

MR. GIBBONS: Thank you, Mr. Chairman. I'd like to propose an amendment to Bill 11, which is going to be marked A6: move that Bill 11 be amended in section 2(4)(c) by striking out the proposed subsection (2)(b)(ii).

Just to speak to that one, the one I said earlier on, it's simply outrageous that they have a clause in this Bill that allows regulations to be overruled . . .

THE CHAIRMAN: Hon. member? Does everyone have a copy?

SOME HON. MEMBERS: Yes.

THE CHAIRMAN: Good. A6.

MR. GIBBONS: It's simply outrageous that they have a clause in this Bill that allows regulations to overrule the wishes of the duly elected Assembly.

Thank you, Mr. Chairman.

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

MR. DICKSON: Thanks, Mr. Chairman. My question to anyone opposed to this amendment would be: why on earth would we allow a ministerial regulation – this isn't a regulation passed by the Lieutenant Governor in Council, but a ministerial regulation, because that's what we're talking about – to overrule a statute? You know, there's sort of a cascading order of importance. You have statutes, which are the creation in this Assembly, where there are opposition members, the only place where arguably all Albertans are represented. There's debate. There's *Hansard*. It's an open place. Occasionally we even have some good Albertans that come in to watch the process and see how their laws are being made.

Then sort of going down the tier, next we have Lieutenant Governor in Council type regulations, which at least are made pursuant to the Regulations Act. They're made in the closet, they're made in secret, but at least they're made pursuant to an Act.

Then below that we have a third beast called ministerial regulations, which are made . . .

MR. SAPERS: The ugliest of all.

MR. DICKSON: Absolutely the ugliest creature. Mr. Chairman, they're made completely independent of the Alberta Regulations Act. They're not subject to the Regulations Act.

So what's happened is, if we've got the three categories, we

now have the C category overruling the A category. We have a minister sitting down on his own and deciding: "I'm going to overrule a statute passed in the Legislative Assembly of Alberta. I'm going to overrule a law passed by 83 MLAs." You know, the Minister of Energy shakes his head, but that's what we're talking about.

Why, Mr. Chairman, would we give a single minister – not the Lieutenant Governor in Council, not the cabinet – the power to undo something that we decide in this place? Some people may say: well, how could that possibly happen? If you look at subsection (2)(b)(ii), at the bottom of page 5, it says:

Unless otherwise provided for in that regulation, a regulation made pursuant to subclause (i) prevails, in respect of matters provided for in that regulation, over the provisions of the enactment under which the registry operates.

Enactment is defined in the Interpretation Act of Alberta to mean a statute or regulation. So what you've got here is the absolutely preposterous situation where a ministerial fiat, if you want, because that's what we might call a ministerial regulation, can overrule a statute passed in this Assembly.

We've seen attempts by the government to do it before, where it's a Lieutenant Governor in Council regulation, but to allow a minister the power to thumb his or her nose at this Assembly and this process and go off and do their own regulation – this is the most amazing power. I can hardly believe, Mr. Chairman, that the government would tuck something as outrageous as this into page 5 of something described with as an innocuous as this into the Registries Statutes Amendment Act, 1997.

Mr. Chairman, I think that it's time for the democrats in this Assembly, I think it's time for people who are concerned about the rights of citizens, I think it's time for people who are concerned about the basic tenet of democracy – that elected people make the law, not appointed people. I think it's important for people who think that ministers can do what they wish, but they can only do it consistent with, pursuant to the direction that the Legislative Assembly gives them. I expect all of those people to rise up in protest, and we can do it here tonight. We can do it here tonight. Whether you represent St. Albert, whether you represent Calgary-Currie, whether you represent any of the other constituencies we see represented here tonight . . . [interjection] Cypress-Medicine Hat, absolutely.

We have a chance tonight to send a very clear message that we will defeat and reject anything such as we see on the bottom of page 5 in the statute. We are going to insist that if a statute is passed in this Legislature, it cannot be overruled except by another statute passed in this place. If we choose not to do that, if this amendment does not meet with the kind of support I'm counting on and hoping for, Mr. Chairman, we're taking one enormous step back into the dark age.

Now, there may be some members here who can think of some conceivable reason why we would allow a minister to arrogate to himself or herself the power to overrule the Legislative Assembly, but I haven't heard it yet. I can't imagine what that would be, Mr. Chairman, but if there is a member who thinks there is some explanation, some reason that they want to proffer, this is the time to do it.

So I'm going to sit down, take my seat for a moment and see if we have a government who will explain why, why oh why a minister can overrule the Legislative Assembly. I think Albertans are going to be interested in that explanation too, and if they're not, they're certainly going to be interested in seeing how members vote on this critically important amendment.

Thanks very much, Mr. Chairman.

THE CHAIRMAN: The hon. Leader of Her Majesty's Loyal Opposition.

MR. MITCHELL: Thank you, Mr. Chairman. I stand in support of the amendment, and I would like to see this clause gone. I want to put this in a broader perspective and a broader context. One of the issues facing all politicians and certainly of grave concern to Albertans today is the cynicism that people feel about the political process and about the democratic process. The irony is that this government has responded with lip service, in one sense has made some motions toward greater openness and greater accountability and a greater respect for the democratic process while in fact their actions belie that lip service very, very clearly.

We have seen the government this session move to withdraw its commitment to a fall session each year. Ironically, of course, Premier Lougheed in 1971, prior to becoming Premier, had campaigned on fall sessions just as had the Premier currently when he campaigned for the leadership. We have seen a move to renege on the value that this Legislative Assembly has placed on free votes, a move which was reversed only under public pressure and pressure from our opposition. We have seen the elevation of standing policy committees, Mr. Chairman, to Legislature status when in fact they are only single-party committees. And they're a masquerade. They do not in fact represent more broadly the nature of the Legislative Assembly and the valued traditions that have existed for literally hundreds of years.

Today we raised in the Legislative Assembly the stark reality that this government was, by regulation behind closed doors, secretly going to exclude at will certain statutes from the application of the freedom of information legislation, which should be paramount. So clearly that is the door opening to a government eroding the very nature, the very essential quality of a freedom of information Act, which is to ensure that when things get embarrassing, the information keeps coming.

9:40

Tonight, Mr. Chairman, we are discussing a clause in an Act being proposed by government which is startling in its effect and startling in whatever intentions it could be that brought it to be in this piece of legislation. This clause would allow a minister to overrule legislation voted upon and passed by this Legislature. That is a direct affront to the power of this Legislature, to its authority, to its stature and to its significance. There will never be I would say – it's very unlikely – a clear-cut point or a clear-cut step or action that will define the jump from a democratic process respected by the people who should uphold it, the people of this Legislative Assembly, and a far too weak democratic process that has been eroded because of a lack of respect by a government such as this one.

Mr. Chairman, if we are to leave a legacy at all that is worth while, it must be premised upon a commitment to the democratic process. If ever there is an affront to democracy – and I've been here, as you know, for 11 years – I see it in this clause, and that is that any minister could actually overrule a vote of this Legislative Assembly, which is of course the highest court in the land, as it were, and the highest authority, the highest decision-making body in this province.

MR. DICKSON: It was before Bill 11.

MR. MITCHELL: It was, of course, before Bill 11, and it won't be if this clause is allowed to stand and if this amendment is defeated.

I ask, I beseech each of the Members of this Legislative Assembly to consider that this isn't some minor political point, this isn't some minor issue driven by partisan fervour, or it shouldn't be. Everybody should rise above that in this Legislative Assembly and vote to support this amendment, defeat this clause, and support the democratic process in this province. Thank you.

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

MR. SAPERS: Thanks, Mr. Chairman. Of all of the amendments that have come forward this evening, in fact of all of the clauses in a Bill that we've debated, whether it be Bill 11 or any other Bill so far this session, I have to say that the proposed clause (2)(b)(ii) is perhaps the most troublesome and this amendment the most important. I have not been able to find one other example where by ministerial regulation the will of the Legislature could be thwarted. I could not find one other example where a government has been so arrogant as to tap one of its own chosen on the shoulder and say, "You as a member of Executive Council have the power to do whatever you want in spite of what the Legislature, what 82 other men and women have said should be done." That's what this clause would provide for.

There's not one person in Edmonton-Glenora, in my constituency, who cast their ballot for me or any of the other candidates standing for election in the last general election of this province that sent me to this Legislature to be a rubber stamp for Executive Council. There is not one constituent of mine, Mr. Chairman, that said to me at the doors or came to one of my town hall meetings or one of my candidate's meetings and said: "We want you to be silent in the Legislature. We want you not to participate in debate. We particularly don't want you to interfere with a minister when the minister decides that the minister can do whatever they want outside of the lawmaking process, the legislative process in this House." That has never happened. I would challenge every other man and woman in this Chamber and poll each one of them to see whether or not one of their constituents has come to them and said: "Yes, please be a rubber stamp. Yes, please be a puppet." I don't think that's ever happened. I don't think that's why people vote.

This is not a partisan issue, Mr. Chairman. This is an issue of democracy. This is a fundamental issue. This is not an issue that has anything to do with us against them or 63 of them and 18 of us. This isn't an issue of Liberals and Conservatives.

MR. MITCHELL: It's an issue of conscience.

MR. SAPERS: This is an issue of conscience, Mr. Chairman. You know, you build up to a point, and then somebody else delivers the punch line. Don't you hate that?

Mr. Chairman, it is in fact an issue of conscience, and I can't in good conscience let this slide by, and I don't think any other member in this Chamber can. Calgary-Montrose is a man of principle. He can't let this slide by. Peace River is a man of principle. He can't let this slide by. This is not an issue that lends itself to the Whips being on.

I wonder out loud if every member of the Chamber has read this section. I wonder if everybody has taken the chance to turn to the Bill. And I know again it's a tedious job, Mr. Chairman. It's tedious because it's in one of these omnibus Bills and you really have to search for it. I can't help but wonder if that was really the secret intention of this secretive government, to sort of slide it in and hope that nobody noticed.

You know, this government was humbled, if not humiliated, during the debate a few years ago on Bill 57, when they tried to

fool Albertans about their intent with the Delegated Administration Act. Albertans rejected that, and the government listened, and to their credit they pulled the Bill. But since they pulled that Bill, they've been really sneaky in trying to slide these kinds of things back in. There's no other way to explain this.

What justification is there – and think about the irony here, Mr. Chairman – to legislate that the minister can overrule law. Now, it makes you scratch your head. They're creating legal authorities by statute that the minister doesn't have to pay attention to statutes. It doesn't make sense. It is ironic. It is antidemocratic. It is fundamental in terms of what our role here as elected members is, and I think that it does a disservice to members of this Assembly, to all the men and women who stand for office. It certainly does a disservice to the parliamentary traditions in this province.

I am certain that if all of the new members, particularly the new members, took the opportunity to acquaint themselves with that section of the Bill, they would be equally outraged by it. If Grande Prairie-Wapiti read that Bill and wasn't outraged – because I've heard that member be outraged about so many things – I would be surprised. If the Member for St. Albert read that clause and wasn't outraged, I'd be surprised, or Lac La Biche-St. Paul.

Mr. Chairman, by not participating in debate I hope that they're not agreeing or acquiescing to the government's will in this regard. I can only hope that through their vote they will make it clear where they stand. I am confident they will stand on the side of democracy and on the side of the people of Alberta who require their elected members to represent their best interests in this Chamber, not simply the will of the 18 or so handpicked, chosen few members of the front bench and the inner sanctum.

Thank you.

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

MR. DICKSON: Thanks very much, Mr. Chairman. I thought it would be useful just to refer members to the Interpretation Act of Alberta because I'm sure there are some members who aren't accepting the proposition – the fact that nobody on the government side has stood up to acknowledge the problem. Maybe people are saying that "the enactment" doesn't include an Act. This is the Act that gives meaning to general words used in Alberta statutes, and if one looks at section 25(1)(e) of the Interpretation Act of Alberta, it says: "Enactment" means an Act or regulation or any portion of an Act or regulation." Clearly, what this amendment does is provide that a statute passed in this place can be overruled by regulation. To compound things, what's a minister's regulation? If we look at the Regulations Act, chapter R-13, the whole provision deals with regulations being made by Lieutenant Governor in Council and a certain regime that has to be followed in terms of filing things with the registrar, regulations. There's a certain process to follow.

A minister's regulations aren't subject to that, Mr. Chairman. So you've got a compounded problem. You've got the minister's regulation prevailing over a statute, and the minister's regulation for the most part is not going to be caught under the Regulations Act. So we're really out in left field. I mean, this isn't a small deviation from good practice. This is an enormous deviation from parliamentary practice, and I'd just encourage members to consider that definition of "enactment" in the Interpretation Act, understand the seriousness, the gravity of what we're doing and support the amendment that's before us, Mr. Chairman.

Thank you.

9:50

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

MS OLSEN: Thank you, Mr. Chairman. I, too, would just like to refer to this amendment. It makes no sense to . . . [interjections] It makes no sense; okay? It makes no sense to have a subsection in a piece of . . . Therefore we should support this amendment. Correct?

I wonder if the sponsor of this Bill really did look at all the other legislation that may in fact apply to this. As the hon. Member for Calgary-Buffalo pointed out, there is nothing, absolutely nothing, that would fall to protect the citizens of this province should the minister decide to change the regulations. That could happen on a whim, as could the changing of the minister. Maybe one day one minister likes it one way, and then the cabinet changes. Then you might have the hon. Member for Medicine Hat the minister, and he wants it a different way. There's nothing to protect Albertans from that. So I'm concerned about that.

This goes back to the need to have the Law and Regulations Committee meet and have an accountability process so we can speak to these amendments. I don't think that the hon. member who sponsored this Bill really intended to have this as open as it is and allow the minister - I'd like to thank my colleague for the candy - to have such an ability to make a unilateral decision on the regulations. So I would urge everybody to support this amendment, because in all seriousness it really does speak to the issues of representation, accountability, and the democratic process.

On that, I'll sit down and eat the candy that my colleague is throwing around.

SOME HON. MEMBERS: Question.

THE CHAIRMAN: The question's been called. We have before us amendment A6 as moved by the hon. Member for Edmonton-Manning. All those in support of amendment A6, please say aye.

SOME HON. MEMBERS: Aye.

THE CHAIRMAN: Those opposed, please say no.

SOME HON. MEMBERS: No.

THE CHAIRMAN: Defeated.

[Several members rose calling for a division. The division bell was rung at 9:54 p.m.]

[Ten minutes having elapsed, the committee divided]

[Mr. Tannas in the Chair]

For the motion:

Blakeman	Massey	Sapers
Bonner	Mitchell	Sloan
Dickson	Nicol	Soetaert
Gibbons	Olsen	Zwozdesky

Against the motion:

Boutilier	Herard	Melchin
Burgener	Hierath	Oberg
Cao	Jacques	O'Neill

Cardinal	Johnson	Paszkowski
Clegg	Jonson	Pham
Day	Klapstein	Renner
Ducharme	Laing	Severtson
Dunford	Langevin	Strang
Forsyth	Lund	Taylor
Friedel	Magnus	West
Fritz	McFarland	Yankowsky
Havelock		

Totals: For - 12 Against - 34

[Motion on amendment A6 lost]

SOME HON. MEMBERS: Question.

THE CHAIRMAN: All right. The question's been called. We have before us then for consideration . . .

The hon. Member for Edmonton-Glenora.

MR. SAPERS: Thank you. Would this be the appropriate time for me to move a motion that should there be further divisions, the time between bells be reduced to one minute?

THE CHAIRMAN: That would be all right.

The hon. Member for Edmonton-Glenora has moved that Standing Orders regarding the amount of time spent between the bells - that it be one minute. All those in support of that, please say aye.

HON. MEMBERS: Aye.

THE CHAIRMAN: Opposed, please say no. Okay. You have unanimous consent.

We now have the question then.

[The clauses of Bill 11 agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE CHAIRMAN: Carried.

Bill 16

Justice Statutes Amendment Act, 1997

THE CHAIRMAN: The Committee of the Whole next has under consideration Bill 16, Justice Statutes Amendment Act, 1997, as moved by the hon. Minister of Justice and Attorney General. Do you have any comments, questions, or amendments?

The hon. Member for Edmonton-Norwood.

MS OLSEN: There are no amendments. I'd just like to speak to this. There are no amendments.

What I'd like to address again, Mr. Chairman, is the omnibus nature of this Bill. I have some concern that we're developing a pattern here where we've had three Bills introduced and each one

of these Bills has a number of different Acts in it. The Justice Statutes Amendment Act, 1997, sponsored by the Minister of Justice, encompasses the Domestic Relations Act, the Judicature Act, the Limitations Act, the Provincial Court Act, and the Provincial Offences Procedure Act. We have three Bills that introduce, you know, similar omnibus-style Bills. I just wonder what the intent of all of this is.

10:10

MR. HAVELOCK: To make it simple.

[Mr. Zwozdesky in the Chair]

MS OLSEN: Well, the KISS principle sometimes just doesn't apply. It's very nice to want to keep it simple. However, if there are some issues in relation to a number of these Bills, then I think each one of them deserves the appropriate debate.

I had some issues raised to me by some family court lawyers here in the city in relation to the Limitations Act and the fact that there was no discussion with a number of those city lawyers, family court lawyers, on that. So I wonder who the minister has gone out to and who he's spoken to in relation to this. If we're truly having public consultation and we're truly aspiring to be an open government, then indeed the minister would have gone out to any number of different stakeholder groups. I know that there would have been some debate and that some of the lawyers in this city would have rejected the Limitations Act.

I guess in the actual Bill each one of these amendments to each separate Act doesn't appear to have anything truly outstanding in it. Therefore, I'm not opposed to this Bill, but I am opposed to the form and the principle of the omnibus Bill. So if the minister at some point would really do us a favour by separating these out, I think it would be worth it for us to be able to debate any of the issues. My concern about that is that if there is something I don't like in an omnibus Bill, then I have to reject the entire Bill even though he may have had some outstanding amendments, and maybe in this particular Bill he might have a couple of outstanding amendments. However, should there be the opportunity to want to reject an amendment, as we have in Bill 11, then that means we would have to defeat the whole Bill, and I'm sure the minister wouldn't want us to defeat any outstanding amendments.

On that, I'll leave the Bill, and anybody else who wishes to address it may.

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

MR. SAPERS: Thank you, Mr. Chairman. The difficulty that I have with Bill 16 is the proposed amendments to the Provincial Offences Procedure Act. I mean, again what we have before us – my colleague from Edmonton-Norwood just finished going through the fact that it's an omnibus Bill. This Bill was the subject of a notice of motion given earlier today which was the subject of a Speaker's ruling. I take it from the Speaker's ruling that we are still awaiting clarity on how it is that a member of this Assembly is able to introduce an instruction motion from the Assembly to committee.

We'll have Bill 17 before us. If I could give notice of motion in committee about Bill 17, I would give notice of motion, because I want the Government House Leader to know, I want the Speaker to know, I want the Deputy Chairman of Committees to know, I want every member of the government to know, and I particularly want the Minister of Energy to know that we would

like to introduce a motion of instruction to separate every one of these omnibus Bills that comes our way, whether it be Bill 16 or 17 or 11 or whatever other Bill the government would choose to package in this way, because this is bad public policy. The problem with this Bill is that at committee stage you could laboriously go through the Bill and could find amendments for every one of these Bills and could set it up so that there could be endless debate on this Bill. Bills like this just don't lend themselves to efficient use of time in the Legislature.

We have heard government members stand in this Assembly, particularly the Treasurer, and talk about how it costs \$15,000 a day or a minute or an hour or whatever his point is about debate, as though to say the price of democracy is too high and Albertans don't want to pay for it, which is not an argument I've ever heard in my constituency. But if the government is truly concerned about the costs associated with running the Assembly, then they would do whatever is within their power to make sure that the right form of Bill is brought to the Assembly so that we don't have to waste time picking our way through these omnibus Bills.

So while I have concerns about Bill 16 to that extent, which would lead me to vote against the Bill regardless of what's between the covers of the Bill, simply because of the way it was brought forward, I have a substantive problem with the Provincial Offences Procedure Act. That is because it is silent on whether or not a surcharge levied under the Victims of Crime Act can result in default time separate from time served in lieu of payment on the original fine.

You know, it's a shame, Mr. Chairman, that so many Albertans are incarcerated because they're poor. In fact, in this province we have an unenviable record of incarcerating the poor. There are many, many, many men and women in prison in this province in remand centres and in provincial jails and in police lockups because they don't have money to pay a fine: not because the judge said they were a danger to themselves or society, not because they are presumed violent and dangerous, not because they couldn't be controlled, but because they couldn't pay a fine.

Now, for the last 300 years civilized societies have been trying to find a way to separate those people that society must be protected from and who must be put into prison and those people who society doesn't need to be protected from but who still deserve a sanction because of their behaviour. One of the sanctions that we've decided upon in this society is the sanction of a fine levied as a sentence or part of a sentence. One of the reasons a judge will give a fine as part of a sentence is because they don't consider the offender to be needing incarceration. So it is a real tragedy that these individuals, who the courts have already determined don't need to be incarcerated, will find their way into jail simply because they don't have a few dollars.

Now, Mr. Chairman, if these same individuals, who have options to work off their fine through fine option programs – and I'm not saying they should get away scot-free without enduring the consequences that were imposed by the court. There are lots of way to ensure that they will comply without incarceration. But what would be even worse is if somebody was already having difficulty paying their fine but managed somehow to scrape together the dollars they needed to satisfy the court, to pay their fine, yet couldn't, for whatever reasons, come up with the extra few dollars to satisfy the surcharge, if because of the surcharge and the surcharge alone they would find themselves at risk of losing their jobs, perhaps creating difficulties in their family, perhaps interrupting education or something else that was going on in their life that was positive, simply because of their inability to pay a fine surcharge.

Again, Mr. Chairman, I will hasten to add that the surcharge is

something that should be taken seriously. It's important. It's a feature of the law, and it's a feature of how we expect people to live up to their responsibilities when they break the law. But I would argue that the inability to pay a surcharge levied under the Victims of Crime Act pursuant to amendments resulting from the Provincial Offences Procedure Act as amended in Bill 16, the Justice Statutes Amendment Act – those individuals should not be incarcerated. Not only is it bad potentially for them and their families and the people that depend on those people who have been fined; it is also of course problematic for us as guardians of the public purse.

10:20

I can think of nothing more wasteful than incarcerating somebody, whatever the cost of incarceration is, for the lack of being able to pay a few dollars on a fine surcharge. [interjections] I hear the Minister of Environmental Protection and the Minister of Energy saying: but nobody made them do the crime. Of course not, and if they were listening closely, they would have heard me say that there should be a consequence, a serious consequence, for the behaviour. That consequence needs to be imposed by the court, and the court needs to determine whether or not public safety is best served through a period of incarceration. If the court determines that public safety will not be enhanced through incarceration and they levy a fine, then we in the Legislature have an obligation to support the court in that decision and not through the back door impose incarceration because we have increased their potential for serving default time because of the presence of a fine surcharge.

So I would argue that Bill 16 is very, very hard to support in its current form, strictly because the government has been silent on whether they intend to incarcerate Albertans because they are in default of paying a fine surcharge, not the fine but the surcharge. [interjection] I hear the Minister of Environmental Protection making noises, and I would hope that he would stand up and make his points on the record so all Albertans can learn from his insight into the criminal justice process.

Mr. Chairman, that is the substantive difficulty I have with the so-called provisions to the Provincial Offences Procedure Act. Before I cast my vote, I hope that the Minister of Justice or perhaps the Minister of Environmental Protection, if he knows, or any other member of the government will tell me with some certainty whether it is the intent to allow for default time to be served in prison or in jail in lieu of paying the surcharge or whether it is not the intent to allow for default time to be served in a provincial jail in lieu of the surcharge. If not, perhaps the Minister of Justice could talk about enhancements to the institutional fine option program, which has served the people of this province so well in satisfying the intent of the court. Now I see the Minister of Environmental Protection nodding his head up and down, which would indicate either agreement or vertigo, as earlier today we learned in question period.

Maybe the Minister of Justice or perhaps some other member will make clear the point about default time on surcharges. I know you were paying close attention, or maybe it was to something else.

MR. HAVELOCK: I'll get back to you on them.

MR. SAPERS: All right. He's indicated he'll get back to me on them. I hope that will happen before we go to vote in committee, because it's going to be important in terms of determining my support. [interjection] Mr. Chairman, I won't be distracted.

But I will say this. Even if the Minister of Justice was to stand in this Assembly and give the guarantee to all members of the Assembly and therefore to all Albertans that not one taxpayer cent would be spent incarcerating somebody in default of a fine surcharge and that not one person will be at risk of losing their job because they were incarcerated because of the failure to pay a fine surcharge or the failure to find space in an institutional fine options program, even if the minister were to do that, I'd still have difficulty, of course, supporting Bill 16 because of the form and nature of the Bill. So maybe he won't have to stand in the House to influence my vote, because he knows of course just how bad this Bill is in its form and its content.

THE ACTING CHAIRMAN: The hon. Member for Calgary-Buffalo has risen to take the floor. Perhaps we could listen to him.

MR. DICKSON: Thanks very much, Mr. Chairman. Just a couple of points. In summary, the concerns would simply be as follows. I had a concern in terms of the Judicature Act change in terms of court security, the requirement that a person has to identify himself. I simply confirm that the concern in terms of all of these disparate provisions being rolled together into one statute continues to be a problem. With the Provincial Offences Procedure Act we may well be in a situation where we go back to having a debtors' prison again simply because we're going to have more people incarcerated for failure to pay a surcharge, which strikes me as being a preposterous situation.

Mr. Chairman, for all of those reasons I have problems with the Bill. Just fundamentally rolling all of these things together is a problem. Tucking the Limitations Act provision into Bill 16 in the way it is is a problem as well. For those reasons I'll be voting against the amendment.

Thanks, Mr. Chairman.

THE ACTING CHAIRMAN: I see no other speakers wanting to speak to Bill 16.

[The clauses of Bill 16 agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE ACTING CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE ACTING CHAIRMAN: Carried.

Bill 18
Natural Resources Conservation Board
Amendment Act, 1997

MRS. O'NEILL: Mr. Chairman, as we enter into Committee of the Whole on Bill 18, I'd like to take this opportunity to thank the members opposite for their words of encouragement during second reading of the Bill, certainly not for their empty words of tonight. It is the objective of this government to be comprehensive in our presentations on legislation, and I certainly appreciate the

recognition that in doing so, we answer the questions before they are even asked.

I'd like to take this opportunity to clarify an outstanding question on Bill 18. The question came up during second reading about the situation developing where only one person was appointed to the board, whether decisions could be made by that person acting alone. In conferring powers, the Natural Resources Conservation Board Act refers to either the chairman or to the board. The NRCB Amendment Act, which is Bill 18, provides that the board would consist of "not more than 5 members . . . one of whom shall be designated by the Lieutenant Governor in Council as Chairman." In conferring powers to either the chairman or the board under the Act, it's clear that the powers granted the chairman are largely of an administrative or facilitative nature, whereas the decision-making powers are granted exclusively to the board.

That consideration along with the construction of section 17 of the Act provide clear legislative intent that decisions of the board must be made by three or more individuals. Section 17(1) of the NRCB Act states:

The Chairman may designate any 3 or more members of the Board to sit as a division of the Board and may direct that division to conduct any hearing, inquiry, investigation or other proceeding that the Board could conduct under this Act.

In order to give meaning to section 17, it must be interpreted that decisions of the board be made by three or more members. So the NRCB Amendment Act amendments to section 12 would allow the board to function with one or more full-time members. However, to exercise the powers of the board to conduct a hearing, inquiry, investigation, or other proceeding it is directed to conduct, the chairman would have to strike a division of the board for that purpose. Members can be appointed by the chairman to a division of the board as acting board members as provided in section 15 from a list of individuals nominated by cabinet.

With these comments I conclude my remarks, and I would hope that those who wish to speak to it would speak to it briefly and in affirmation of it. Thank you, Mr. Chairman.

10:30

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

DR. NICOL: Thank you, Mr. Chairman. I'd just like to thank the Member for St. Albert for providing the explanation on the structure of the board. It seems that in looking through, you have to be very, I guess, flexible and able to carry different pieces of information throughout the whole set of amendments to build the structure of the board. The old Act had a very definite definition of the numbers, and it would have been just as easy to have had the same as part of the amendments here so that we could say that in order to be effective, to provide all of these sets of subcommittee decision-making parameters that were necessary – these could have been built in by saying just right up front that the committee must be composed of at least three members. Although if you look at the recognition that's there in terms of any kind of a subdivision of the committee, there has to be three people to go on it. If there are only three on the whole committee, then effectively the whole committee also becomes a subdivision, and essentially they're going to be working that way.

Really what we've got is: a minimum of three are required on the board, and the board can be bigger. I assume that's if there's a big project where they want to have divisions so they can then

have them assigned to different aspects of the project. So I'd like to thank the member for bringing forth that kind of an explanation for us.

Mr. Chairman, I'd also like to just address some of the issues that come up in terms of addressing the Bill. I didn't get a chance to speak to it during second reading, and I'd like now to just kind of address some of the concerns that I have in general about the amendments to the Bill and how they affect the operation of the Natural Resources Conservation Board as the amendments would imply those operations might be affected. What we have to look at, then, is: really the Act makes three different basic changes in the operation of the board. One is, I guess, a questionable amendment in the sense that if the board goes through a process and comes up with a set of recommendations, what kinds of new information, what kinds of outside – I hate to use the word "pressure" – influence could be put forth on the board that would cause it to go back and do an amendment to its report? This is what essentially is part of what we see here, both the power of the board to amend its own activities, and if I recollect, there's the option there also for Executive Council to make changes in the recommendations.

So what we've got to deal with here is some kind of clarification of the kind of parameters, the kind of new information that would lead to the possibility of a new set of hearings. What is the process that they'd have to go through before there would be an amendment to their approval? We want to make sure that there's some degree of consistency between the ability of the public to be involved in that amending process as well, because the process of the NRCB is very open, very public, very friendly toward input from all views. If we have a report and the public feels, "Oh, we now have what is really a collective decision-making process completed and we have a report," then all of a sudden there's the process for an amendment, how do we get new inputs? Does the NRCB have to go through another set of public hearings before they can deal with that amendment and that process to bring about those kinds of changes in their original report? This is, I guess, the issue that I see in terms of the first part of the set of amendments that we see here, and it looks at it from the perspective of that kind of process.

In quickly reviewing the Bill, you know, I'd like to see some good regulations put in there that define and clarify the process through which that amendment approval is kind of legitimized in the public view. We don't want to bring into question an amended direction from the NRCB because of it's, quote, lack of public input, lack of accountability, lack of openness that we have already established with the original recommendation of the board. You know, I think that Albertans have got to the point now where they really appreciate that openness, that input, that friendliness that's associated with the development of a report by the NRCB. So I'd like to have the member deal with this from the perspective of how that, quote, confidence, that comfort can be maintained in the NRCB as we go through those I hope infrequent cases when we would have a change on a recommendation.

The Member for St. Albert is holding up two fingers very close together, and I assume that means they're very minor, minor changes, but still that openness has to be there in terms of how it is handled, how we make sure that the public has a chance to react. It might even be, Mr. Chairman, that what they do is when they want to deal with an amendment, they do it in a process stage where they bring forth a motion that is then published, reaction comes back, and based on that reaction they can decide whether to vote yes or no on the motion. You know, it could be

something so simple as that, remembering that these are two fingers very close together in terms of magnitude of changes.

I hope the member appreciates what I'm trying to say. We don't want to jeopardize, you know, the credibility that the NRCB process has built with Albertans right now, because it is so important that when we're dealing with our natural resources, when we're dealing with our environment, we have that public confidence. We have to have that feeling that people feel heard, that they feel part of decisions that are going to affect their relationship to their community, their relationship to their environment, their relationship to the natural resources that they're concerned about, not necessarily just working with but that they're concerned about.

[Mr. Tannas in the Chair]

This is really, you know, the kind of situation that in my public involvement, public life even before I was elected was one of the things that I had lots of involvement with, and the main issue that came out was this feeling of comfort, this feeling of being heard. I'd like to encourage the Member for St. Albert and the government to make sure that this is part of this process. I recognize that that's not part of a Bill, but it has to be part of the operation of a Bill, the application of it when we get it out into the public. So I don't see a set of amendments or anything that's going to set out, you know, that the following three steps or 10 steps have to be followed before an approval can be finalized, but we have to develop a mechanism where people feel comfortable about it.

10:40

As I see the other section of the Bill dealing with some of the other changes, we've already dealt with the size of the board, and again I express thanks to the member for clarifying that for us. Now, we've talked about the ability to amend. The final one is the changes that come about in terms of definition of some of the projects that would be subject to a Natural Resources Conservation Board hearing and report. What we're seeing, as I interpret the amendments, is that they're bringing an NRCB requirement effectively under the same kind of umbrella, the same mandate, the same set of conditions as an environmental impact assessment. If an EIA is required, then we'll have an NRCB requirement as well.

We've got to deal with this, because environmental impact assessments deal with kind of the larger scale projects that are being put into the province and being developed. When we're dealing with our natural resources, a lot of times what we're going to end up with is an accumulation of smaller projects that have the same kind of an impact as one big project, one larger scale development. So it is important that we deal with this in terms of making sure that if we see a snowball that's rolling down the hill and building bigger and bigger, we're not going to have to wait until it becomes catastrophic in its impact before we have a process in there where we can say: "Just hold it. How can we go about controlling this snowball coming down the mountain?" We want to make sure that we've got a review in place when we've still got a manageable situation.

I'd like to see if the Member for St. Albert, the sponsor of the Bill, could provide us with the kind of information that would make Albertans, members of the public at large, feel comfortable that we're not going to see that gradual encroachment into a natural resource area, natural resource development projects by small-sized increments that are, in essence, exempt from the NRCB, but cumulatively, together, they make an impact that

could be at least as great if not greater than a single major project that would come in.

As we get into dealing with some of these issues, we're looking at the aspects of small licences that deal with forestry or small licences that deal with mineral development in some of our wilderness areas. On their own they don't really amount to much, but if you have eight or 10 or 12 licences all operating adjacent to each other, what we've got is the whole side of a mountain or the whole area of a forest or the whole area of the prairies of Alberta being disrupted. So what we've got to deal with is the degree of comfort there that by tying the Natural Resources Conservation Board trigger to the environmental impact assessment, we're not excluding the possibility of calling for an NRCB report on a series of smaller projects that could come out and provide an accumulated impact that would be the same as a big one.

Now, I see kind of a questioning look in the Member for St. Albert's eyes and face, and I was just hoping that she has a real quick, easy explanation for how I've misinterpreted the relationship between the possibility of small, exempt projects accumulating to the point where we've got an impact. So it would be great if the member has that kind of explanation for us so that I can go back to the constituents and the people of Alberta and say: "Don't worry about it. We've got this under control. It can be dealt with." They're seeing this as an erosion of the power of the NRCB to deal with encroachment issues into the development area of a project, so this is one of the things that we want to make sure we have in place.

The other sections of the Bill, Mr. Chairman, I don't see as really being anything other than supportive of these three major focus areas of the amendments that we've talked about. You know, they're kind of housekeeping in support of either changing the board size, structure, working authority, or they're supportive of the relationship in terms of how amendments can be put in place and also how these new definitions of projects come about.

The latter again is really the issue in terms of how we deal with this compatibility and the impact that the NRCB has on the environmental impact assessments and the public confidence that came about when we needed to have broader reviews than just the environment in terms of how the NRCB was able to deal with issues that dealt with the community, that dealt with a lot of impacts that wouldn't necessarily be handled by an environmental impact assessment.

With those general concerns we'll anticipate some responses from the sponsor of the Bill, the Member for St. Albert. If those kinds of issues aren't clarified in terms of the debate, we'd still have the possibility of bringing forth some amendments that would help, from our perspective, to clarify some of these issues that we've raised.

So with those few comments, I'll await the possibility of a response from the member. Thank you, Mr. Chairman.

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

MRS. SLOAN: Thank you, Mr. Chairman. I did not have the opportunity to speak to Bill 18 in second reading, so at this point in time I consider it a privilege to be able to speak to the Bill.

I am aware of the history with respect to the Natural Resources Conservation Board Amendment Act, the fact that it was passed in 1990 and that it reflected at that time the ability of a board to review the social, economic, and environmental impacts of major projects. I would want to state philosophically my support for the

Bill at this point in time. I would, however, raise some questions with respect to the amendments proposed and potentially the implications of those amendments restricting the NRCB's ability to undertake that responsibility.

I also think it's prudent to raise in the course of debating this Bill a bit of history. An hon. colleague of the Official Opposition in 1994 did propose a Bill to amend this Act, and specifically the intention of that amendment was to allow the board to review at its discretion not only projects required by the NRCB but all activities where an environmental impact assessment is mandatory. Bill 18 does not in our analysis meet all of the original requirements of the hon. Member for Sherwood Park's amendment in their entirety.

Turning then to the specific sections of the Bill, in section 2(a) it is proposed in the future that the board will not be required to review all facilities used to manufacture pulp, paper, newsprint, or recycled fibre but only those for which an environmental impact assessment has been required. Under the Environmental Protection and Enhancement Act, specifically regulation 111/93, an environmental impact assessment is mandatory for paper, pulp, newsprint, recycled fibre with a capacity of more than 100 tonnes a day. Thus only a small project that does not require an EIA will not require an NRCB review. I think my hon. colleague did speak with respect to that in his statements.

Section 2(b): the defined project is being changed from "metallic or quarriable mineral project" to "metallic or industrial mineral project." There is no definition of industrial mineral in the Act, either in the Mines and Minerals Act or in the NRCB Act. So I would raise that for the hon. member. What is the definition? I don't profess to be an expert in this field, but it's something that to me would seem to be prudent to define.

10:50

The other question just with respect to that section: would there be any quarries now that would be exempt from review? I think, based again on our research, that an environmental impact assessment review is mandatory for quarries that are producing more than 45,000 tonnes per year. So these quarries would automatically get an NRCB review. Is the intention of the amendments to change that? Would there be quarries that would be exempt, is the basis of my question?

Turning then to section 2(c) and the proposed change for the definition of water management project. At present the regulation requires an NRCB review for water management projects that exceed a certain size, have a capacity exceeding 15 cubic metres per second. Indeed, what the amendment may mean is that smaller projects could be reviewed by the NRCB if the director has requested it. I do not foresee in that particular section that there are any specific questions or scrutiny required at this point in time.

Moving to amendments in section 4. This is the section where the board will be able to amend an approval that is granted, and this could be necessary, perhaps, due to new information becoming available. The question that arises is: would it not be better to require the cabinet to approve any changes? At present cabinet is required to give prior authorization to any NRCB approval. So it would seem appropriate that the cabinet should approve any amendments. If the hon. member can provide some clarification as to whether or not it would be more advantageous to have the cabinet approve the changes, I think that would be of assistance to us in the opposition.

In section 5 the board currently, if I'm correct, is required to

have at least three members. According to the amendment, there would be no minimum size. This could mean, I guess, that there could be two members. I don't think it's possible to have a board of one member. Again, I think you did explain it.

A general question that comes to me is: on the basis of what consultation are these changes being made? I've raised that point not only in the context of this Bill but others. I find it difficult and surprising that there is not a process whereby the government can share rationale, whether it be consultation or legal opinions or stakeholder input, with the opposition to fuel their need or their urgency to have the Bill passed. Basically, all we receive is the Bill. Again, with due respect to the member, this is not just a criticism specific to this Bill; it's in general. All government Bills lack the rationale, the analysis, the stakeholder consultation documentation that would assist the opposition in being convinced that the merits of the Bill are important, that they're aligned with the stakeholders in the sector and are in the end worthy of supporting.

Getting back, then, to the size of the board. What happens if there are only two members on the board and they do not agree? I don't know, and this doesn't provide any clarification of that. The other question that I have to ask – because it seems to be a preoccupation that we have – is: is this change solely being proposed to save money? I can't think of what the other reasons might be. We don't have the rationale accompanying the Bill to know it. Suspicious minds, perhaps, but is it driven by, again, a preoccupation with saving money?

Just as a contrast, the Alberta Energy and Utilities Board Act requires three or more members of the board to conduct any hearing, inquiry, investigation. This is a criticism I've raised in the context of other Bills. We have so many varying standards. So for the Alberta Energy and Utilities Board Act we're going to say that we must have three. Now for the NRCB we're saying that there's no minimum. Why, I guess, as government do we not have a consistent standard with respect to that? If a review is worth conducting, I would propose that it should be conducted well. I would also argue that I believe the board should have at least three members to ensure that there's a breadth of experience on the board and to ensure that there's a majority if the board cannot agree on any points.

I think that with those comments, Mr. Chairman, I am prepared to conclude, and I would look forward to the hon. member's responses, if she is so inclined to share those with us this evening. Thank you.

THE CHAIRMAN: The hon. Government House Leader.

MR. HAVELOCK: Yes. Thank you. I'd like to move that we adjourn debate on – what is this? – Bill 18.

THE CHAIRMAN: The hon. Government House Leader has moved that we adjourn debate on Bill 18. All those in support of this motion, please say aye.

SOME HON. MEMBERS: Aye.

THE CHAIRMAN: Those opposed, please say no.

SOME HON. MEMBERS: No.

THE CHAIRMAN: Carried.

Bill 13
Trespass to Premises Act

THE CHAIRMAN: The hon. Minister of Justice and Attorney General.

MR. HAVELOCK: Yes. Thank you, Mr. Chairman. I do have an amendment which I'd like distributed to the members, please. Do you have the amendment at the Table? Okay; great. Thank you.

While that's being distributed, I'd simply like to remind members that the reason this Bill is being proposed is that the courts decided some time ago that the Petty Trespass Act applied only to agricultural land. The Act had been passed with the intention that it would cover all premises and land; however, the courts interpreted otherwise. Therefore in order to ensure that shopping centres and businesses and similar developments have some protection and ability to respond to trespassers, we have proposed this legislation. It should be pointed out, Mr. Chairman, that this Act applies to all lands with the exception of those which are covered under the Petty Trespass Act.

Now, the amendment that I'm having distributed makes it absolutely clear that in addition to covering only those lands which are not subject to petty trespass, grazing leases are also excluded from the application of this legislation. I would like to mention that there is an extensive review being undertaken and chaired by the Member for Drayton Valley-Calmar, and I anticipate that there will be some recommendations on that, hopefully in the near future. The long-term objective would be to have one Act dealing with trespass. However, we're trying to respond to a short-term problem which was precipitated by the court decision.

Does everyone have the amendment at this stage? I'd like to point out that the change from the existing Bill that's before the House relates to section 1(c)(ii). The addition is (B), and (B) is basically capturing the grazing leases. We've tried to track the wording so we could ensure that it's consistent with the Petty Trespass Act.

So with those introductory comments I'd encourage all members to support the amendment that's before the House.

11:00

THE CHAIRMAN: Did you move the amendment? The Chair did not hear you move it. You may have done so and I didn't hear it.

MR. HAVELOCK: Oh, sorry. Then I'd like to move the amendment.

THE CHAIRMAN: This amendment will be known as A1 to Bill 13.

MR. HAVELOCK: Okay. Mr. Chairman, I don't believe it's been distributed yet.

AN HON. MEMBER: Yes, we've all got it.

MR. HAVELOCK: Okay. I believe the opposition have yet to receive it.

THE CHAIRMAN: Okay. Well, we'll just take a pause, then, while we wait for it to circulate.

MR. SAPERS: This amendment is out of order. It's not signed

by Parliamentary Counsel. It's not dated. It's not signed by the member . . .

THE CHAIRMAN: The hon. Member for Edmonton-Glenora is trying to indicate that . . .

MR. SAPERS: No, no. I'm not.

THE CHAIRMAN: . . . this is in fact amendment A1, and now he has it. Are you ready for the question then?

The hon. Member for Edmonton-Norwood.

MS OLSEN: I just want some clarification, if I could, if the minister would entertain a couple of questions. [interjections] On the amendment, okay?

I'm reading this, and if you could just clarify for me. This almost appears to be a double negative in terms of an amendment.

AN HON. MEMBER: Have you got the right amendment?

MS OLSEN: I've got the right amendment. It's a double negative.

MR. HAVELOCK: Believe me, it's not a double negative.

MS OLSEN: Oh, I don't know about that. My question I guess is that this does not clearly – or you can correct me – take us out of the Petty Trespass Act. Is that correct?

MR. HAVELOCK: Do you want me to respond? Why don't you sit down, and I'll respond.

MS OLSEN: Okay. I'll sit down, and you respond.

THE CHAIRMAN: Hon. Government House Leader.

MR. HAVELOCK: Yes. Thank you, Mr. Chairman. What this amendment is doing – the change relates to (ii)(b), and that refers to the grazing leases. If you were to check the Petty Trespass Act, there's a specific exemption relating to the grazing leases. It may be worded a little awkwardly. However, we did review this extensively, and I've been assured that despite its perhaps being a double negative, or not, the grazing leases will not be subject to this Act.

THE CHAIRMAN: We have then before us the amendment as proposed by the hon. Minister of Justice and Attorney General known as amendment A1.

[Motion on amendment A1 carried]

THE CHAIRMAN: We have then before us for our consideration Bill 13, Trespass to Premises Act, as moved . . . [interjections]

MS OLSEN: Sorry. I was a little confused, Mr. Chairman. I did have another amendment that I would like to introduce.

DR. WEST: A point of order, Mr. Chairman.

THE CHAIRMAN: Hon. minister.

Point of Order
Calling the Question

DR. WEST: A point of clarification. The question has been

called, and I assume that at that point there is no more debate. Is that true?

THE CHAIRMAN: No. I'd presumed that the hon. Member for Edmonton-Norwood was trying to call a point of order. The Chair was trying not to move with undue haste, but we had the vote on the amendment, and then no one is standing, so, okay, the question is called. Then I fished around and found the copy of the Bill and started the process when two members then leapt up. The only thing I can do, as in an earlier case where we had this unfortunate incident, is to either proceed or to ask if we could have unanimous consent to let the hon. Member for Edmonton-Norwood propose her amendment.

The hon. Government House Leader.

MR. HAVELOCK: Mr. Chairman, in the interests of fairness, perhaps before we ask our colleagues whether they'd be prepared to give unanimous consent, if there could be some indication from the member as to how long she would be spending on her amendments, and then I think that . . . [interjections] Well, just a sec. If you're looking at an hour debate, I think the answer would probably be no. But if it will be very brief, I think there might be some serious consideration of that.

THE CHAIRMAN: The hon. Member for Edmonton-Norwood on the proposed vote to seek unanimous consent.

MS OLSEN: I feel handcuffed. However, I was just wondering if the hon. House leader would allow two speakers just on the amendment.

THE CHAIRMAN: Hon. Government House Leader, still on the question.

MR. HAVELOCK: You have one amendment?

MS OLSEN: Yes.

MR. HAVELOCK: Again, seeking clarification, two speakers could mean 40 minutes. How long are you going to spend on it? Just so we understand.

THE CHAIRMAN: Edmonton-Norwood.

MS OLSEN: Mr. Chairman, in order to keep our stable relationship, I would not speak very long at all on the amendment. I'll introduce it, speak to it, and if I could have another speaker, then we'd keep it very short.

THE CHAIRMAN: Hon. member, we started a process, and the only way I can see out of that is to do as we've done before and ask for unanimous consent. If unanimous consent is given, then we will allow the hon. Member for Edmonton-Norwood to propose her amendments. If unanimous consent is not there, then the Chair has no obligation other than to proceed with the call. So all those in favour of allowing the hon. Member for Edmonton-Norwood to propose an amendment and speak further to Bill 13, please say aye.

SOME HON. MEMBERS: Aye.

THE CHAIRMAN: Those opposed, please say no.

SOME HON. MEMBERS: No.

Debate Continued

THE CHAIRMAN: We now have, then, as I was saying before, Bill 13. Because we have had a successful amendment, on the remaining clauses of the Bill, are you agreed?

[The clauses of Bill 13 as amended agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE CHAIRMAN: Carried.

[Mrs. Laing in the Chair]

Bill 15

Protection for Persons in Care Amendment Act, 1997

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

MRS. SLOAN: Thank you, Madam Chairman. I have had the opportunity to consider the Bill as proposed, and I'm certainly aware of its history and the previous passage in the last session.

Just by way of general introduction to the amendments that I would like to bring forward, I had the opportunity to review the Summary of the Public Consultations on the Protection for Persons in Care Act. These consultations occurred during the course of 1996. I believe they were initiated by the hon. Member for Calgary-Bow in July of '96. The summary of those consultations is what I am citing from this evening.

11:10

Specifically, I want to just speak to several categories that arose recurrently in those consultations and where stakeholders and the public compelled the government to bring forward actions in the context of amendments to the Act. So to proceed on that matter, I would like to speak about the definition of abuse. It was identified, both in general terms and then specifically in some of the regional discussions, that abuse needed to be defined in a broad way and that the definition that was proposed in the original Act did not incorporate neglect as a form of abuse. It is cited – and I read from the document – that stakeholders felt strongly that “neglect” should be added to the definition. This was reinforced in Calgary on July 30, 1996, where participants said that “neglect,” “harassment,” and “spiritual abuse” should be included as abuse in the definitions.

Again in Lethbridge on July 29 neglect was identified by stakeholders and elaborated upon, utilizing the term “creating fear,” that that should be included in the definition of abuse. In St. Paul, as well, on July 22, 1996, stakeholders identified that neglect, as defined by the Office for the Prevention of Family Violence on elder abuse, should be included in the definition of abuse and that “spiritual abuse” and “unreasonable confinement” should also be included.

With those comments, I think there's a merit, Madam Chairman, to incorporate an amendment that brings forward an elaboration of the definition. I would like at this time to move that Bill 15 be amended as follows, and I have the accompanying copies of that amendment for distribution to the members of the Assembly.

Just while those are being distributed, for the purposes of the record I will read the amendment, that Bill 15 be amended as follows.

In section 2(a) in the proposed section 1(a) . . .

MR. MAGNUS: A point of order.

THE ACTING CHAIRMAN: A point of order's been called.

**Point of Order
Questioning a Member**

MR. MAGNUS: *Beauchesne* 482. Would the member entertain a question?

THE ACTING CHAIRMAN: Would the member entertain a question? You don't have to accept it, hon. member.

MRS. SLOAN: No.

THE ACTING CHAIRMAN: The member has declined.
Carry on.

Debate Continued

MRS. SLOAN: All right. In section 2(a) in the proposed section 1(a) by striking out "or" at the end of subclause (v), and by adding the following after subclause (vi):

- (vii) leaving a vulnerable person without the means or ability to obtain food, clothing, shelter or health care, or
- (viii) an act or omission or a pattern of conduct resulting in deprivation of the care necessary to maintain minimum physical and mental health.

As I alluded to in my introductory remarks, I think that this amendment is aligned with the recommendations made by stakeholders during the consultations conducted by government in 1996. They were supported in a variety of geographical locations and, I think, served to improve the definitions in the Act and broadened its applications.

I do want to convey to the hon. member across the way who asked if I would entertain a question that if the question is specific to the amendment, now that he's had the opportunity to examine it, he's certainly in a position, I believe, to rise and make comments with respect to that. I'd certainly be in a position to respond to that.

I have no further comments with respect to the amendment at this time, Madam Chairman.

THE ACTING CHAIRMAN: Okay. We'll call this amendment A1. Are there any other speakers?

The hon. Member for Highwood.

MR. TANNAS: I'd just make the comment that this feature, (vii) and (viii), will expand the point of the Bill beyond the institutions that we're talking about. If that's the intent, then I would have difficulty supporting that since we're trying to confine the institutions as institutions of care: hospitals, auxiliary hospitals or nursing homes, lodges, and group homes. If we're going to move

beyond there before this Bill gets a track record, I would have some concern about that.

THE ACTING CHAIRMAN: Okay. Any other speakers?
Edmonton-Riverview.

MRS. SLOAN: Just in response, Madam Chairman, I think if we're to address the underlying intent of the Bill, it's to protect vulnerable persons, and I believe the intent of the government with respect to this Act originally was to advocate that principle. Where the vulnerable person resides, in my view, is incidental. If we are committed to the principle and the premise that they should be protected from abuse, abuse being defined as including neglect and abandonment, then that principle should apply regardless of where they reside.

[Motion on amendment A1 lost]

MRS. SLOAN: Strange, strange proceedings, Madam Chairman. The government says that they're open, they're accountable, they listen to stakeholders. Here's the report of the people you asked in 1996, and I cited to you specifically Lethbridge, Calgary. Take your pick. People said: include and broaden your definitions. So we bring them forward in the House, and the government cannot see fit to support them. On what basis? There's not a single member of them that will rise and say on what basis.

11:20

Nonetheless, we continue to be narrow in our thinking and inconsistent with respect to the development of laws in this province. That's not something that I take responsibility for, and I'll continue to challenge the hon. members on the government side to be broader in their thinking and to incorporate the recommendations made by stakeholders in the context of consultations that occur. Otherwise, consultations are a complete farce, I would submit, Madam Chairman. They are a complete farce. If the public goes forward, if they take the time to participate and then the recommendations that they make get absolutely no air time with this government, they are a complete farce.

The second area that I would like to turn to with respect – and again citing from the summary on the public consultations, there was significant discussion with respect to the need for criminal record checks. I'll just cite some of the comments that were brought forward. "Most felt," as an example, in Grande Prairie "that a criminal record check was desirable." It was viewed that the

Act should require a check on successful applicants [but] not every applicant. Some felt a criminal record is a poor predictor of abusive behaviour,

that it is not necessarily going to be a mechanism whereby agencies, employers can determine that this potential volunteer or employee would be someone who would be capable of abuse.

There were comments made, as well, in St. Paul, July 22, that "participants were divided on the requirement for a criminal record check." Some felt that it "should be a condition of employment [but] not required for each applicant." Certainly, to carry through, in Red Deer again people expressed their concern that a "criminal records check provides very limited information [and is] not useful." So the whole merit of having that as a requirement under this Act was seriously questioned by the stakeholders, and members were informed during the government's consultation.

It is prudent as well to look at the recommendations that were

made by the labour organizations in the province with respect to the original Bill in 1996. I would cite from the submission by the Health Sciences Association of Alberta, which was a critique of the Protection for Persons in Care Act, dated August 15, 1996. In that report they cited that

a criminal [records] check may be valid for offenses that would tend to demonstrate a tendency to abuse. Employers should not, however, be permitted to inquire into offenses that are not relevant. Would employers have to demand checks of current employees, and what would the implications be for someone whose record did show a past conviction? How long would convictions be considered to be relevant? The section does not indicate what, if any action an employer would be expected or required to take.

Any associated costs [they submitted] should be borne by the employer.

So in the context of the submissions both by the general public in the report prepared by the government and in the context of the submission by a trade union representing care providers in this particular sector, the whole merit of having a criminal record check is called into question. We in the opposition are not, however, going to propose a deletion of that section, while in some cases we would submit it may be useful. There's merit to having it there. Because of the differing opinions with respect to its application, we would submit that the costs arising from these checks should be assumed by the agency or the employer.

Madam Chairman, I would be prepared to move an amendment to Bill 15, and I have copies of this amendment for circulation in the Assembly. As the copies of the amendment are being circulated, I will read it for the purposes of the record. That Bill 15 be amended as follows. In section 4 in the proposed section 5(3) by adding the following after "a criminal records check": ", and any costs arising from the criminal records check shall be assumed by the agency." I think that this is certainly something that is a practice in other sectors. If an employer requires such a check to be done, it is for the most part assumed to be their responsibility. I would submit that if the government is supportive of this type of check being mandatory, even in the face of its being questioned by stakeholders, whether they be public or organizational in nature, the government should be supportive of having those costs assumed by the agency conducting the inquiry.

Thank you.

THE ACTING CHAIRMAN: On amendment A2, the hon. Member for Calgary-Buffalo.

MR. DICKSON: Thanks very much, Madam Chairman. Just a couple of observations with respect to it. I just want to make the point that the criminal records check is not nearly the safeguard that some members may think. The reality is that when we're dealing with elder abuse, everything that I've learned from talking to the seniors' organizations in downtown Calgary is that most of the people who are found to be abusing vulnerable people, seniors and so on, tend not to be people with criminal records. There are, I think, some real limits. Simply the fact that somebody doesn't have a conviction for a criminal offence certainly doesn't mean that they're not capable of cheating, defrauding, or abusing seniors or any other vulnerable person.

Given that it is fair and reasonable that the cost of the check should be assumed by the agency, I don't remember a criminal record being defined in the initial Act. It's been awhile since I looked at that Act, and I'm not sure whether there's a definition. In fact, criminal record means some different things. It's not a

single criminal record. Do we mean only Criminal Code offences? Does it mean only indictable offences? Does it mean indictable and summary conviction offences? Are we going to treat a criminal record as somebody who hasn't paid the victim surcharge, which the government is anxious on imposing? It would be reasonable to know those things. I think there's an element of fairness in terms of having the agency pick up the costs of the criminal records check. I support the amendment. I think it's a reasonable one and helpful in terms of realizing the objectives of the Bill.

Thanks very much, Madam Chairman.

[Motion on amendment A2 lost]

11:30

THE ACTING CHAIRMAN: Calgary-Buffalo.

MR. DICKSON: Thanks very much, Madam Chairman. I have a further amendment, which I'll ask to be distributed now. I think it's at the Table. This is an amendment that I think might be more persuasive to the members opposite.

DR. TAYLOR: I don't think so, Gary.

MR. DICKSON: Well, hope springs eternal, Madam Chairman, even in trying to persuade somebody who's as cautious as our friend from Cypress-Medicine Hat.

The amendment which is being distributed now is a really simple proposition. It's a really simple proposition that will be as important in Edson, Alberta, as it is in downtown Calgary. The amendment which is now being distributed provides that in section 3(a)(ii) we strike out "minister" and substitute "Ombudsman." Now, the reason for this I think should be evident to all members, but let me share with members. Last year I had the opportunity to go to the Crowchild Inn in northwest Calgary, where you, Madam Chairman, were part of a consultation with representatives from many seniors' groups in Calgary. There were care providers and representatives of the Golden Age club, the Kerby Centre, the Confederation seniors organization, Renfrew Sixty Plus Club, a whole range of seniors organizations and others, workers and so on. I went to three different discussion groups, where they were identifying some of the shortcomings in the Protection for Persons in Care Act. I think one of the concerns that surfaced if not before certainly after my involvement in each of those discussion groups was the fact that if you have a complaint, if somebody feels there's been abuse of a vulnerable person, under the existing Bill you go to the department, and under Bill 15 the government would have you go to the Minister of Community Development.

What people would say to me at that meeting in Calgary and what I've heard since and what we predicted would happen when the Bill was debated two years ago is that many of the complaints or concerns may be with respect to a service provided by an agency or department of the government of Alberta. People's concern is: how can we know this is going to be investigated, that it's going to be taken seriously if the complaint is indeed against a colleague of the Minister of Community Development? She sits around the table, you know, once a week in a cabinet caucus meeting, sits with her colleagues the other members on the front bench and is in regular communication with them. Even with somebody who is as universally respected as the current incumbent of that office of Community Development, why would we think Albertans would see that somehow she's independent or at arm's length from the other ministers?

It may be that somebody had a complaint against the Minister of Energy, that some vulnerable person had a complaint in respect of a facility under the auspices of the Minister of Energy. Would they feel comfortable in going to his seatmate and saying: "Hold it; I think I've been abused in some way under this Act. I'd like to initiate some kind of complaint under the Act." Well, people would say: "They're seatmates. They sit side by side. They share confidences afternoon after afternoon. They compare notes on the questions they like and don't like in question period." They may sit together at the cabinet table, though we don't know. [interjection] And the Minister of Environmental Protection as well.

The point is just this: any member on the front bench is part of a team, Ralph's team. We heard that ad nauseam during the 28 days leading up to March 11. So why would we single out one of those ministers and say, "Somehow this person is going to be able to be an independent, objective investigator and arbiter if there's a problem"? That doesn't wash, Madam Chairman, and you must have heard that, too, at the Crowchild Inn, because it certainly came up in the three discussion groups. It's come up at meetings at the Kerby Centre, at meetings at the Golden Age club, where people say: "Yes, that's right. We're not comfortable in taking that complaint to a minister of the Crown. We'd much prefer it went to someone else."

We look around. Who else has got the capability to do investigation, has investigators, has a staff? Who else is arm's length from the government but the Ombudsman? A made-in-Alberta institution, tailor-made for this kind of investigation. [interjection] The Minister of Energy says that that's ridiculous. My response to him, Madam Chairman, is what's ridiculous is this masquerade of suggesting that one of his colleagues, his seatmate, is somehow going to be seen by Albertans as being independent of him and his other colleagues.

DR. WEST: You were elected in a democracy. What are you talking about?

MR. DICKSON: What the Minister of Energy says with all the vigour he can muster at 11:40, Madam Chairman, is that he doesn't care what sense of confidence Albertans have in an independent complaint system. He doesn't care. It's of no consequence to him. He may not well be making a complaint, but he may have a relative who wants to raise a concern, maybe one of his constituents . . .

THE ACTING CHAIRMAN: Calgary-Buffalo, through the Chair, please.

MR. DICKSON: Thanks very much for the admonition, Madam Chairman.

Anyway, the issue with the amendment – and I trust all members have got it now. It simply is a question of substituting "Ombudsman" for "Minister." It's not good enough to substitute just: the minister for the department. I just think that without this, people will not have confidence in the whole process. It undermines everything the Member for Highwood is attempting to do and has attempted to do and, Madam Chairman, with respect, everything you've attempted to do in light of the leadership you've provided around this province on this Bill also. You worked with seniors' organizations in Calgary and other parts of Alberta. They want to see this change. We want to see this change. What's holding us back? Let's make this modest change,

strengthen the Bill, allow government members to go out and say to seniors, wherever they live in this province, that they're protected now in a way they haven't been before and that they can have a measure of comfort, which is really what they want and which we ought to be able to provide them with.

So for all those reasons I move the amendment that's been distributed and urge members to consider very carefully. Sometimes we vote in this Assembly on a reflex basis. Sometimes we see members voting without even knowing what the amendment is in front of them, what the issue is in front of them. I just think this is a chance for all members, even those nodding off in the back row, Madam Chairman, to consider very carefully the proposition we have in front of us and, when we vote, to understand the significance of this issue.

Thanks very much, Madam Chairman.

THE ACTING CHAIRMAN: Highwood, followed by Edmonton-Riverview.

MR. TANNAS: Thank you, Madam Chairman. Just to respond a little bit to the hon. Member for Calgary-Buffalo. One of the reasons I have some discomfort with this particular amendment is that it may indeed by its nature change the whole position of the Ombudsman. What we have, if we read the title of the Bill and the preceding Bill, is protection for persons in care in those named institutions: hospitals, auxiliary or nursing homes, lodges, and those group homes as defined under the Social Care Facilities Review Committee. Normally the Ombudsman deals with government departments but not with local institutions, so now we would have the Ombudsman doing the investigation. The Ombudsman's role is more to investigate government's failure to act or negligence or acts of omission. So leaving the Ombudsman where the Ombudsman is now would be appropriate, in my view, because if this investigation process does not work, if the minister does not have one of his investigators do it or hires an independent investigator to do it and they fail to carry out any kind of appropriate decision and discipline or whatever the investigation leads them to do, then you have an appeal to the Ombudsman that the department and the minister failed to do right by this vulnerable person. So it changes that.

11:40

Talking about independent, the department is in a sense independent – I know it's related – of the institution that we're dealing with, whether it be Alberta Hospital or the institute in Ponoka or whatever. It's not run directly by the department; it is run by agencies and boards. So all of the institutions of care are that much removed from the government. The department has a kind of independence, but the Ombudsman will be able to make rulings on whether or not the minister has appropriately followed up on the investigation or on the decision or disciplines.

THE ACTING CHAIRMAN: Okay. Edmonton-Riverview.

MRS. SLOAN: Thank you, Madam Chairman. I want to speak in support of the amendment but would just like to take a few minutes to reply to the hon. Member for Highwood's comments with respect to the role of the Ombudsman. I would agree that the role of the Ombudsman is to investigate an act of omission, but what is an act of omission if not the failure to provide service in a safe and comprehensive manner, which is exactly the premise of this Bill? In hand with that, the hon. member cannot dispute that there is a perception of bias and there is a perception of

conflict of interest when a minister is asked to review or investigate a complaint within their own department. It's a blatant perception and one that the government should be alive to in ensuring that investigations are conducted in an impartial manner.

So with those comments, I would like to turn to the comments made by stakeholders during the consultations in 1996 with respect to this issue, and I would cite specifically again from the government's summary document. In Edmonton on Thursday, July 25, 1996, with 104 participants, under the category of other issues and comments the recommendation was that there should be one agency established to investigate reports of abuse rather than having different departments in charge of different investigations. In Lethbridge on Monday, July 29, 1996, with 43 participants in attendance, the comments were: much more detail needs to be added to the legislation about the powers of investigators and other issues around the investigation process. Again, those recommendations are not addressed through the provision that the minister would be the director of the investigation and the decision-maker.

In Calgary on Tuesday, July 30, 1996, with 104 participants, there were recommendations made with respect to this matter. As well, they cited that – and it was specifically in the home care and community care service provider discussion, I believe 12 in attendance. The concerns cited were that institutions should not complete their own investigations, investigations should be completed by someone independent of the institution, and investigators should be trained. Again, in the Capital region focus group, home care and community care service users consultation, the recommendation was made that we

need trained investigators that are independent – not representatives from the agency providing the services or supplying the service through contract.

In Calgary, in the focus group for nursing home, auxiliary hospital, lodge, home care, group home residents and family members in October, 90 people participating: we “could use an ombudsman [or a] government committee or existing investigators.” [interjections] None of which are incorporated by the recommendations in the amendments, hon. member.

The intent of citing those recommendations is that nowhere in the recommendations from stakeholders did the stakeholders say that the ministers should be the decision-maker with respect to appeals in the system. Again, I would say that my hon. colleague's amendment is intended to propose an impartial, fair, arm's-length process of investigating and determining the merits of concerns arising from the system. On the basis of the majority of recommendations made within the summary of consultations, I would propose that all government members would be in support of this amendment.

With that I will conclude my comments on the amendment.

DR. WEST: Well, it's getting late at night, and I thought maybe I'd better stand up and speak to this amendment in relevance to common sense and to practicality in our system. The assumption of this amendment is that you would have an ombudsman that would direct a public process to investigate some complaint within the health system, some part of the health care system or some part of the system, whether it's in long-term care or what have you. At the present time I would suggest that there are 100,000 caregivers inside this system of one description or another. I know that there are probably 20,000 registered nurses and LPNs. There are 4,400 doctors. We could go on from chiropractors to every individual that works in caregiving at any level. And you're suggesting that the Minister of Community Development,

in looking into seniors' concerns or concerns as they relate to some of our delivery of services, is not capable of directing, when she's elected by the people of Alberta, a complaint or an investigation into certain problems.

I suggest that that's contempt for, I guess, the elected people, as well as contempt for the people who deliver these programs in the province of Alberta. Many of them are self-governing that are under other pieces of legislation.

MR. SAPERS: That's the most ridiculous thing I've ever heard. You've got to be kidding.

DR. WEST: I'm not kidding. This individual over here from Calgary-Buffalo stood up and said that elected individuals in this province who make up the government, who constitute Executive Council, are not to be trusted in a democratic process, that they would have some collegial association that would direct them to manipulate the system so that an investigation into certain complaints would not be fair. I would submit that the Member for Calgary-Buffalo, who was elected under the same process as I was elected, is saying, then, that the people that elected him to come in here and debate such issues as this can't trust him, that he would come in here and suggest amendments like this that don't bear any weight whatsoever with the public themselves.

11:50

SOME HON. MEMBERS: Way off the mark. Way off.

DR. WEST: Well, I may be off mark at 10 to 12, but I've listened to amendments come forward where the texture of the debate is not respectable. I'm looking at the hon. Member for Calgary-Buffalo. He continues to go on and discuss the credibility of government ministers and the duly elected process. I would say that members of the loyal opposition coming in here and keeping us at this hour of the night with this level of debate is despicable. I would have stood up on a point of order, but I would suggest that the hon. member may want to stand up and counter this by an apology to this Assembly for disrespecting the people of Alberta under a democracy and a democratic process. But then maybe I'm expecting quite a bit of Her Majesty's Loyal Opposition to even consider standing up and apologizing to the people of Alberta for those comments.

MR. DICKSON: Madam Chairman, I want to thank the Minister of Energy. I want to thank him for having the courage to stand up, not to shout observations from the chair, but to stand up and to attempt to engage in the debate. This doesn't happen often enough. He's one of the most vocal members, but always from a sitting position. So I congratulate him for standing up and at least offering some comment on the debate.

What the minister clearly misapprehended – and I'll try to make it as clear as I possibly can. I have all the confidence in the world in his colleague the Minister of Community Development, but what I said is that it's Albertans who have to have confidence that when they make a complaint, it's going to be heard by an independent person, somebody who's independent. It doesn't matter whether that minister – why do we have an Ombudsman at all, hon. minister? We have an Ombudsman. Why do we have legislative offices? Why doesn't the Auditor General work under the Provincial Treasurer? Why doesn't the Information Commissioner work directly under the Minister of Labour? Because, Madam Chairman, we know it's important that people have confidence in the system. It's not a question of what our trust

level or confidence level in any member of the Crown is. It's a question of what confidence Albertans have.

The other question I have to ask is this. Contrary to the Minister of Energy, I have enormous confidence in the men and women who make up the civil service of this province. I have enormous confidence in the health care professionals in the province of Alberta. If the minister is somehow suggesting that most of these people are either incompetent or prone to abuse the trust position they have in terms of providing care, I'm offended by that, and I hope he's going to stand up and apologize to the health care workers of this province. I hope he's going to apologize to the honourable civil servants of this province, because he slurred all those people with the observations he made a few moments ago.

The final point I wanted to make, Madam Chairman, is this. What is the cost in taking one of the smallest departments in the government of Alberta, the Department of Community Development, and hiring a bunch of investigators, training them, putting together the procedure books, putting together a whole new system so they can do investigations? Last time I looked, people in that department worry about seniors' benefit applications; they manage some arts and cultural applications. I don't think they do very much by way of investigation.

The proposition that we've heard is: we're going to go and create a whole new bureaucracy. Well, what happened to interest in the taxpayers of Alberta? Doesn't it make sense that you go to the single office we have in this province with trained investigators? Wouldn't that be the prudent, responsible thing to do, Madam Chairman? But no, the Minister of Energy wants to spend taxpayer money. He wants to go out and spend a small fortune creating a new bureaucracy. On this side we don't believe in bureaucracy. We don't believe in big, bloated bureaucracy, and I can't tell you how out of character it is to hear the Minister of Energy say that he likes big bureaucracy. He wants it bigger. He wants to go and take a department that doesn't do any investigation and graft on a whole investigative section to it. To me that's colossal abuse. That is an absolute waste of taxpayer money.

So, Madam Chairman, just to sum up, I think the minister should stand posthaste, extend an apology to all those people that he has suggested are not capable of providing straightforward care, all those people he suggested are likely to abuse people in their care, dependent Albertans. I think he should tell us how much more it's going to cost to create a whole new bureaucracy than the cost-efficient proposal from the opposition in this modest amendment.

There are many other members that want to speak. I just wanted to make those observations straight off.

Thanks very much, Madam Chairman.

DR. WEST: Well, it's even got more irresponsible than I thought. I started out by saying that we probably have a hundred thousand different people in this province delivering care to the citizens of Alberta. I was saying that they're governed under self-governing legislation that's passed in this Legislature that allows them to discipline and do investigations and look into their own habits by complaints. They're directed under different ministers of the Crown here under different departments. If there is a complaint that comes in to the medical profession under the College of Physicians and Surgeons, then they do investigations, and it can come back to the Department of Health, and it can be directed

that way. They're respectable people delivering care, but they're self-governing. If the nursing profession has a problem and there's a complaint within the care of certain individuals, then those complaints come in to your association and the association looks at it, and if that isn't good enough, the Minister of Health will redirect a further investigation.

An Ombudsman: what would they do? Would they go to the professional associations, whether it's the chiropractors or whether it's the nursing aides association? What would they do? The minister . . .

THE ACTING CHAIRMAN: A point of order has been called.

MR. HAVELOCK: Yes. Madam Chairman, pursuant to Standing Order 60, I move that the committee do now rise and report.

DR. WEST: Why?

MR. HAVELOCK: Because I have to. Don't worry. You'll get back to it.

THE ACTING CHAIRMAN: A point of order has been raised by the hon. Government House Leader. We have to rise and report.

[Motion carried]

[The Deputy Speaker in the Chair]

MRS. LAING: Mr. Speaker, the Committee of the Whole has had under consideration certain Bills. The committee reports the following: Bill 11 and Bill 16. The committee reports the following with some amendments: Bill 13. The committee reports progress on the following: Bill 18 and Bill 15. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

12:00

THE DEPUTY SPEAKER: Does the Assembly concur in this report?

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? So ordered.

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

[Mrs. Laing in the Chair]

Bill 15
Protection for Persons in Care Amendment Act, 1997
(continued)

THE ACTING CHAIRMAN: Under Bill 15 we have an amendment. We had the Minister of Energy on the floor when the point of order was called. We'll let him continue.

DR. WEST: Yes. I was speaking to the amendment and to the debate that has evolved because of comments made by the Member for Calgary-Buffalo. In those comments he had indicated that I as minister of the Crown had made derogatory remarks against the caregivers in this province. In fact in my debate what I was directing was a respect for them under self-governance, under the professions and occupations area of our legislation, that

said that when complaints come from the public that are in the care of these individuals, some 100,000 of them, that complaint will be heard by a responsible body and can be directed by either the Professions and Occupations Bureau or the ministry that's involved therein, just as the hon. member knows, in the legal profession, which he belongs to, if a complaint comes from the public that is in his care, his association will take him to task if he happens to be the object of that complaint.

Continuing his ill-founded argument that I had suggested that we set up a greater bureaucracy by putting it into a department that isn't capable of following investigations – that's absolute nonsense. There is a full-bodied group, as I said, out in the public arena, self-governing associations, that would follow up under the direction of any one of the ministers directing those professional associations. It wouldn't take an added bureaucracy. An Ombudsman would have to go and set up a committee of appointment and bring in people to conduct an investigation, that would add cost and would balkanize the system.

I think that the hon. member for political gain and political reasons is at this stage of the night filibustering in this Assembly and bringing in accusations against ministers of the Crown and against the process that is already set up. I would suggest that it's high time they got to the content and meaning and the principles of these Bills rather than leading this Assembly on by filibustering and bringing in nonsense that's totally irrelevant to the care of the people of this province.

THE ACTING CHAIRMAN: I'm sorry, hon. members; I didn't see who got up first.

Edmonton-Riverview. We're still on amendment A3.

MRS. SLOAN: I believe we are, Madam Chairman. In the context of that amendment, though, I do have to address the comments made by the Minister of Energy. Quite frankly, he'll be sorry that he started to speak with respect to it. I understood that the premise of the Bill and the amendments we proposed to that Bill were not intended to police employees. In the context of the comments made by the Minister of Energy, I hear you talking about nothing else. If I were to listen to you or to read the *Hansard* transcripts, I would think that the only abuse that happens in this province . . .

THE ACTING CHAIRMAN: Through the Chair, please.

MRS. SLOAN: . . . is through the employees in the system. I understood from the hon. Member for Highwood that the premise of the Bill originally was to provide the government an opportunity to look at the agencies, the operators, the employers as well in the context of providing care. While the Minister of Energy can wax on and on about the regulatory system, the question is: if the regulatory systems are there to provide an investigation process, why then is the government proposing a Protection for Persons in Care Act? Why is that system not sufficient, hon. minister? Why do we need another Bill? We need another Bill because we have allowed a proliferation of facilities and other hybrid care agencies to arise in this province specifically . . .

DR. WEST: Point of order, Madam Chairman.

THE ACTING CHAIRMAN: A point of order has been called. Minister of Energy.

Point of Order Relevance

DR. WEST: I'm speaking to the amendment. I want to know the relevance of this discussion at the present time. We're talking to the amendment.

SOME HON. MEMBERS: Citation.

DR. WEST: *Beauchesne 459*.

THE ACTING CHAIRMAN: To relevance with the amendment on the Ombudsman, Edmonton-Riverview.

MRS. SLOAN: I want to just clarify that it was 459 that the hon. member used. Is that correct?

THE ACTING CHAIRMAN: Yes.

MRS. SLOAN: I would make the assessment, hon. Chairman, that the minister is just agitated by the hour and is not really attentive to the merits of the discussion that I'm proposing.

Debate Continued

MRS. SLOAN: What I was saying to the minister, if he had been paying attention, was that the merits of the Bill and the amendment . . .

THE ACTING CHAIRMAN: Hon. member, through the Chair, please. This will help to limit the debate with each other. Debate the amendment, please.

MRS. SLOAN: The hon. minister in his comments was implying that this Bill exists for no other purpose than to investigate actions of abuse by employees. I would submit that the Bill exists for a much broader purpose than that and pose a question to the hon. minister. If it only served to investigate instances of abuse that are perpetrated by employees, why then are the investigation processes that exist within the disciplines, whether that be physician or nursing in nature, not sufficient? I think the comments that I was making were completely relevant to not only the statements made by the hon. minister but also to the context of the amendment before the committee.

Thank you.

THE ACTING CHAIRMAN: Further speakers?

The hon. Member for Edmonton-Glenora, to the amendment.

MR. SAPERS: Oh, it'll be to the amendment and through you to the minister as well, Madam Chairman. I have heard this minister in this House tonight use the word "despicable" to describe this amendment. [interjection] Is it the minister of transportation who's making all that noise? Perhaps you could do something about it, because I heard you admonish other members earlier. So maybe you could ask him to . . .

THE ACTING CHAIRMAN: Minister of transportation, please.

MR. SAPERS: Thank you, Madam Chairman. I appreciate that. And after two warnings he gets punted: is that right? Because he's being very disruptive.

THE ACTING CHAIRMAN: Let's get on with the amendment, please.

12:10

MR. SAPERS: Now, this Minister of Energy stood in the House and he used the word "despicable" to describe this amendment and to describe the level of debate, as though the debate was the precious commodity of that member or of the front bench, whereas in fact debate on this amendment or on any other amendment is the prerogative of this entire House. In fact, Madam Chairman, it's what we're supposed to do.

MR. PASZKOWSKI: Boring.

MR. SAPERS: Now I hear the minister of transportation saying that it's boring. Well, if it's boring, then I suggest he should go back to his constituents and he should resign because he's bored with his job in the Legislature. That would be wonderful for the constituents of Grande Prairie-Smoky . . .

THE ACTING CHAIRMAN: We're on the amendment, Edmonton-Glenora.

MR. SAPERS: . . . because if he's that bored, then he shouldn't be here and we don't want him here.

DR. WEST: A point of order.

**Point of Order
Inflammatory Language**

THE ACTING CHAIRMAN: A point of order has been called. Before you go ahead, Edmonton-Glenora, I was asking you to speak through the Chair and to get to the amendment.

MR. SAPERS: To you, through you . . .

THE ACTING CHAIRMAN: And on the amendment.

MR. SAPERS: . . . because of you, and on the amendment, Madam Chairman. I want that minister to be silent or to leave so we can enjoy debate on the amendment. [interjections]

THE ACTING CHAIRMAN: Excuse me. Excuse me. I think it's time to quit.

We had a point of order. First I was admonishing you to speak to me and on the amendment, and then we had the point of order.

MR. SAPERS: Oh, I was speaking to you, Madam Chairman, right to you.

So what we had . . .

THE ACTING CHAIRMAN: Would you take your seat, please. We weren't finished. We didn't hear the point of order on this side.

Minister.

DR. WEST: Madam Chairman, I believe the debate has gone far enough in inflaming this Assembly. Under Standing Order 23(h), (i), (j) the hon. member now is leading into debate that would inflame this Assembly and should be called to order on it, because the debate is going further than the intent of the amendment and the previous comments made by the members of this House.

THE ACTING CHAIRMAN: Thank you.

MR. SAPERS: On the point of order.

THE ACTING CHAIRMAN: Yes.

MR. SAPERS: On the point of order, this minister has the audacity to stand and say that my comments are inflaming debate when he uses words like "despicable" to describe democratic debate.

Madam Chairman, the Minister of Energy is a poster boy for recall, and when he stands in this Assembly and uses that kind of language to try to limit debate, it absolutely convinces me that we ought to do something immediately about recall in this province. Things have definitely gone too far when that member tries to limit any member on this side of the House in participating in debate and by using words like despicable and then in citing certain Standing Orders. So there's clearly no point of order because that minister was the one who used the provocative language and has certainly awakened this Assembly at the hour of 12 minutes after midnight.

THE ACTING CHAIRMAN: Thank you.

MR. SAPERS: Now, your ruling on the point of order?

AN HON. MEMBER: It's 14 after the hour.

MR. SAPERS: Well, it was 12 when he inflamed me.

THE ACTING CHAIRMAN: This is a disagreement between members. There is no point of order.

MR. SAPERS: Thank you, Madam Chairman.

Debate Continued

THE ACTING CHAIRMAN: On the amendment. Speaking to the amendment, speaking to the Chair.

MR. SAPERS: I am. I'm certainly speaking to the amendment, but of course in speaking to the amendment I have to react to the Minister of Energy, because he was speaking against the amendment.

THE ACTING CHAIRMAN: No, you don't. It says Ombudsman in here; it doesn't say Minister of Energy. So let's stick to the amendment.

MR. SAPERS: All right. When the Minister of Energy was speaking to the amendment, he suggested that . . .

THE ACTING CHAIRMAN: No. We're asking what you suggest on the amendment.

MR. SAPERS: Right, and I'm getting there, Madam Chairman, if you'll permit me.

When the Minister of Energy was speaking to the amendment, he suggested that it would be inappropriate to refer these kinds of complaints of abuse to the Ombudsman because that would in some way cast aspersions upon the Minister of Community Development. Now, the Minister of Community Development is one minister of the Crown whom I've had an opportunity to get

to know somewhat in our previous roles and is a minister whom I respect for her ability to do her job. So certainly the intent from this side of the House would not be to cast aspersions upon her character or her ability. In fact, it would be to assist that minister in the discharge of her duties, because if the Minister of Energy had taken the time to read the entire Bill before he sort of staggered to his feet to enjoin debate, what he would have noticed is that the wording of the section under debate goes as follows. It says in section 2(1):

Every individual or service provider who has reasonable and probable grounds to believe and believes that there is or has been abuse against a client must report such abuse to the Department of Community Development or a law enforcement agency or a committee, body or person authorized under another enactment to investigate such an abuse.

The intent of the government is clear that it would be not just the department. It could be the department, or it could be the police, or it could be another "committee, body or person authorized under another enactment to investigate such an abuse," potentially including an administrative abuse, which is clearly the mandate of the Ombudsman. That minister pretended to know what his mandate was all about and clearly distorted that if he did know it and would further try to subvert the drafting of the Protection for Persons in Care Act, because when this Legislative Assembly adopted that Act to begin with, it clearly expressed its will that not just the department or the minister could be involved in investigating an abuse but the police could be involved or a "committee, body, or person authorized under another enactment" could be involved, which potentially could involve the Ombudsman.

My colleague from Calgary-Buffalo has simply made it manifestly clear that that was the intent of the Legislative Assembly, and if this minister wants to speak against the Protection for Persons in Care Act, then he ought to do so instead of trying to somehow weasel in comments through this amending process. The fact is that this Legislature made its will clear in supporting that Bill at that time. That Bill sets out the authority for investigating abuse. The intent of the amendment is to make it absolutely clear that once all other routes of appeal have been exhausted, after all other roles have been pursued, after the minister has already had her say, after every other committee and tribunal and whatever other friend of the government might be in place to review these concerns, the Ombudsman then could be enjoined to the issue.

You know, Madam Chairman, as you're aware, the timing of these complaints, the timing of the pursuit of the complaint, the timing of investigating the abuse could be very, very important, and you may want to protect some of the most vulnerable people in this province by ensuring that the Ombudsman is an integral part of the process all the way through so that somebody, particularly a caregiver who wants to launch the complaint, particularly if it's an administrative abuse that arises at the hands of the government, particularly if it's an administrative abuse that arises through and after an omission of the government or an agent of the government – you'd want to ensure that in the most timely way the Ombudsman, who may be the most appropriate agency, committee, or other body who's "authorized under another enactment," could be brought into the situation.

This amendment is a critical amendment to improving the Act. It's also an amendment that clearly strengthens the original intent of the Act. It is an amendment which speaks well to the Legislative Assembly and the hard work that it did, particularly the Member for Greenwood, who has been shepherding through this

Bill for years. The one thing that this amendment isn't is a waste of time or a despicable use of the democratic process.

I would suggest, Madam Chairman, that the next time that minister wants to stand in this Assembly and use that kind of language, he better be prepared to take the consequences in here and outside of this Chamber, both through being censured through our Standing Orders and what the electorate might think of that minister using that kind of language to describe such a well-intentioned, well-reasoned amendment, an amendment that would help protect some of Alberta's most vulnerable citizens.

I urge all members to support the amendment, because it certainly follows on this Legislative Assembly's support of the Protection for Persons in Care Act in the first place.

THE ACTING CHAIRMAN: Further speakers? Edmonton-Norwood.

MS OLSEN: Thank you, Madam Chairman. I rise to speak to the amendment. I'm somewhat concerned as a new member here that I listened to an experienced political figure, if you will, in this province talk about how outraged he is at this amendment and how he feels like the . . .

THE ACTING CHAIRMAN: Hon. member, to the amendment, please. We've been through all this. Let's stick to the amendment, please.

MS OLSEN: Yeah. I'm taking my opportunity, Madam Chairman, and I will speak to the amendment, no question.

My concern with this whole process is that the Minister of Energy is not understanding what this amendment is all about. I would like to see an independent arm's-length process, and not the short arms that maybe some of the other members may be used to but to lengthen and allow a process to occur that is fair and appears to be fair.

You know, I'm sorry that the minister got up and we ended up in this debate, because I think that having an Ombudsman available to people allows a little bit of legitimacy to a complaint. We talk about the democratic process, and every one of us hears about politicians and the lack of trust that people have in politicians. Well, this is an avenue to create and close that barrier and to allow members of the public and employees, all Albertans, to look at this Legislature, this Bill, and this amendment as a way of closing the gap and building some trust. I daresay that there isn't anybody in this Assembly that wouldn't want that to happen.

12:20

You know, I would like to see this particular amendment go through, because I believe in that process. I don't believe it's undemocratic to get up and speak to an amendment or debate an issue. That's what this House is all about. That's what we're here for. We're to provide good legislation for Albertans. I'm sorry that the minister may be feeling that he wants to go home and maybe get some sleep, but we're all here doing our job. I don't feel that this amendment is frivolous. I don't think that my colleague from Calgary-Buffalo has introduced anything that's undemocratic. I really am concerned about the language that – the minister sits back and, you know, makes fun of the whole process. [interjections] I used to believe that these Bills, these amendments were well thought out and we were able to have debate.

THE ACTING CHAIRMAN: Order please. Order. I'd like

everyone to please be quiet. Edmonton-Norwood has the floor.
Continue, hon. member.

MS OLSEN: If we can't have legitimate debate on these amendments and on these Bills, then maybe we all ought not to be here. Quite frankly, we owe it to the people who elected us: all of us and all of you, including the Minister of Energy.

I really, really have a lot of difficulty, like I say, as a new member listening to this garbage in my mind. I really have difficulty understanding why the minister would get up and speak to an amendment like that. I mean, it's supposed to be fair process, fair comment. I don't know. I wonder: is the use of an Ombudsman a threat to this particular minister? Does he not like having an outside investigative process? Is that a problem for him? You know, I have to ask myself those questions, because this big cloud rises above this Assembly when we sit back and we decide that we don't want those processes.

I urge everybody to support this amendment. "Ombudsman" is really not a dirty word in the political process. I would suggest that my colleague from Calgary-Buffalo has put forward a responsible amendment, and he ought to be congratulated for doing some of the work to assist this Bill in passing. [Interjection] Exactly.

And, yes, the hon. Member for Highwood has put a tremendous amount of work into this Bill. This Bill has been on the table for a long time, and it's about time we see this Bill passed with some amendments.

Thank you.

SOME HON. MEMBERS: Question.

THE ACTING CHAIRMAN: Any further speakers?

The question has been called. We are voting on amendment A3, moved by the hon. Member for Calgary-Buffalo.

[Motion on amendment A3 lost]

[The clauses of Bill 15 agreed to]

[Title and preamble agreed to]

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

SOME HON. MEMBERS: Agreed.

THE ACTING CHAIRMAN: Opposed?

SOME HON. MEMBERS: No.

THE ACTING CHAIRMAN: Carried.
Hon. Government House Leader.

MR. HAVELOCK: Thank you. I move that the committee do now rise and report.

[Motion carried]

[The Deputy Speaker in the Chair]

MRS. LAING: Mr. Speaker, the Committee of the Whole has had under consideration a certain Bill. The committee reports the following: Bill 15. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

THE DEPUTY SPEAKER: Does the Assembly concur in this report?

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? So ordered.

[At 12:29 a.m. on Wednesday the Assembly adjourned to 1:30 p.m.]