

Legislative Assembly of Alberta

Title: Wednesday, March 4, 1998 1:30 p.m.
Date: 98/03/04
 [The Speaker in the chair]

head: **Prayers**

THE SPEAKER: Good afternoon. Let us pray.

We give thanks to God for the rich heritage of this province as found in our people.

We pray that native-born Albertans and those who have come from other places may continue to work together to preserve and enlarge the precious heritage called Alberta.

Amen.

Please be seated.

head: **Presenting Petitions**

THE SPEAKER: The hon. Member for Little Bow.

MR. McFARLAND: Thank you, Mr. Speaker. I'm pleased to present today on behalf of the hon. member for the constituency of Rocky Mountain House a petition containing approximately 2,500 signatures from concerned citizens of the town of Rocky Mountain House and surrounding area. The petition indicates the concerns of the community that extend to the additional extended care facilities that are needed in the Rocky Mountain House area.

head: **Tabling Returns and Reports**

THE SPEAKER: The hon. Minister of Economic Development.

MRS. BLACK: Thank you, Mr. Speaker. I'm pleased to table today four copies of the annual report of the Alberta Gaming and Liquor Commission for the year ended March 31, 1997.

THE SPEAKER: The hon. Member for Little Bow.

MR. McFARLAND: Thank you, Mr. Speaker. It's again my pleasure to present on behalf of the hon. member for the constituency of Rocky Mountain House 167 individual letters from concerned citizens of the town of Rocky Mountain House and surrounding area. The letters speak eloquently on behalf of the community that additional extended care facilities are needed in Rocky Mountain House.

THE SPEAKER: The hon. Official Opposition House Leader.

MR. SAPERS: Thank you, Mr. Speaker. With your permission I have two sets of tablings this afternoon. Unfortunately I only have one copy of the first for the Assembly. It's a poster that's being circulated by the students union at the University of Calgary. It says: Is the Cost of Education Holding your Future Hostage? If so, there are little tear off slips to call the minister of advanced education with his phone number on it.

Second, Mr. Speaker, there are seven sets of correspondence that were sent to me or to the whip for the government or the Minister of Education all stating their adamant opposition to any further funding for private schools.

THE SPEAKER: The hon. Member for Lac La Biche-St. Paul.

MR. LANGEVIN: Thank you, Mr. Speaker. It is my pleasure

today as chairman of the Standing Committee on Leg. Offices to table the Auditor General's report for the year 1996-1997, which is pursuant to section 19(4) of the Auditor General Act. All members of the Assembly received copies at the time it was released.

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

MR. ZWOZDESKY: Thank you, Mr. Speaker. I rise to present two tablings, as well, which were initiated by the Liberal Official Opposition going back to 1994-95, when the Auditor General presented two special duty reviews. One of them surrounds the Gainers situation, and the other one surrounds the Swan Hills waste treatment plant. Both of these were very important initiatives by the Auditor General, and I'm pleased to present all members with copies of those once again.

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

MS BLAKEMAN: Thank you, Mr. Speaker. I rise today to table four copies of 58 pieces of correspondence to the Premier asking him to act now to protect the Kananaskis and Spray River valleys forever in a wildlife provincial park.

My second tabling is also four copies of 57 pieces of correspondence to the Premier asking him to please protect the Castle wilderness area now in a wildlife provincial park.

MRS. McCLELLAN: Mr. Speaker, I'm pleased to table the official communiqué of the meetings of federal, provincial, and territorial ministers responsible for seniors. Meetings were held in Victoria yesterday.

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

MRS. SOETAERT: Thank you, Mr. Speaker. I have four different tablings today. One is from Charmaine Blaze, opposed to increased funding to private schools; also another one sent to the MLA for Redwater from Lucille Dubé, very concerned about the funding for public education; another one from Robert Keith in Calgary asking for sufficient funding for public education; and a final one from St. Vincent school asking that the funding for Edmonton Catholic schools be protected by provincial legislation.

THE SPEAKER: The hon. Member for Edmonton-Castle Downs.

MS PAUL: Thank you, Mr. Speaker. It gives me a great deal of pleasure today to table a number of forms that constituents have signed for the elimination or freezing of private school funding.

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

MR. MacDONALD: Thank you, Mr. Speaker. I rise this afternoon to table four copies of a letter from the Labour Coalition on Workers' Compensation addressed to the hon. Minister of Labour. This group recommends that any private member's bill dealing with the Workers' Compensation Act be postponed until the WCB and their stakeholders have completed their benefits policy consultation process.

Thank you.

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

MR. BONNER: Thank you, Mr. Speaker. I have two tablings today. One is from a Mr. Jim Sylvester, the other from a Wanda Soder-Munholland. Both of these tablings are to the Minister of Education. Both request that there be no additional funding to private schools.

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

DR. MASSEY: Thank you, Mr. Speaker. With your permission I would file five tablings this afternoon: one, five copies of a letter from Lowell Leffler and five copies of a letter from Berna Stewart, both asking that funding for private schools be eliminated; five copies of two E-mail messages that were received at our office, opposed to any public funding for private schools; and five copies of coupons that were forwarded to us asking that there be an end to funding for private schools.

Thank you.

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

MR. WHITE: Thank you, Mr. Speaker. I rise to table five copies of three documents: one from a B.I. Stewart, another from the Alberta Federation of Union Retirees, a Red Deer address, and another from another Red Deer address from a different person, a Connie Barnaby, all actually adamant that funding for private schools not be extended.

Introduction of Guests

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

DR. PANNU: Thank you, Mr. Speaker. I'm pleased to introduce to you and to the members of this Assembly a large number of guests from the University of Alberta. These are fourth-year undergraduate students who are enrolled in a seminar called Government and Politics of Alberta. They're accompanied by their instructor, Dr. David Stewart, a member of the political science department. Dr. Stewart's name appears in today's story on the front page of the *Globe* referring to one member of this Assembly whose name also appears prominently in the story. These guests are seated in the members' gallery. I'll request that all of them stand and receive the warm welcome of this Assembly.

THE SPEAKER: The hon. minister of science, research and information technology.

DR. TAYLOR: Thank you. Mr. Speaker, I'm pleased to introduce to you and through you three members from Bristol-Myers Squibb company. Two of them are from Montreal, and one is from Vancouver. These three individuals from Bristol-Myers Squibb are in Alberta looking for innovative partnerships and innovative ways to do business, and we're pleased that they're here. We have with us today Mr. Jeff Hatfield, who's the president of Bristol-Myers Squibb. He was appointed president in 1998. We have Dr. Sophia Fourie, who's the vice-president of scientific affairs, and we have Mr. Ron Otke, who's the manager of pharmaceutical relations. These people are sitting in the members' gallery and I would ask them to please stand and be greeted by the House.

THE SPEAKER: The hon. Member for Whitecourt-Ste. Anne.

1:40

MR. TRYNCHY: Thank you, Mr. Speaker. I wish to welcome

72 visitors to this Assembly. They consist of 64 grade 6 students from St. Joseph Catholic school in Whitecourt. They're accompanied by parents, teachers, and a bus driver. They're seated in the members' gallery, and I'd ask them to rise and receive the warm welcome of this Assembly.

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

MR. MITCHELL: Thank you, Mr. Speaker. I have two separate introductions. The first is the introduction of a young woman who's in the gallery today with her mother, who is Mary MacDonald, the chief of staff of the Liberal caucus research bureau. Her name is Katie McGreer. Consistent with her mother's PhD in political science, Katie is a keen and capable student and a very clear analyst of politics in this province. I'd ask that she rise and receive the welcome of the Members of the Legislative Assembly.

Mr. Speaker, Katie is accompanied today by 35 students, teachers, and parents from St. Paul Catholic elementary school. The students are accompanied by teachers Mr. Hook and Miss Bernado as well as by parents Mrs. Reid and Mrs. Jaques. I would ask that they all stand in the gallery and receive our welcome as well.

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

MR. STELMACH: Well, thank you, Mr. Speaker. I wish to introduce to you and through you to members of the Assembly, seated in the members' gallery, a good constituent of Vegreville-Viking, an excellent community worker, Mr. Gerald Gordey, who is here to witness the activities of the House. I would ask him to rise and receive the traditional warm welcome of the Assembly.

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

MR. SAPERS: Thank you, Mr. Speaker. It's my pleasure on behalf of my colleague from Edmonton-Riverview to introduce a group visiting from a school that used to be in the constituency of Edmonton-Glenora. Today in the gallery we have 22 visitors from the James Gibbons elementary school. The students are accompanied by their teachers, Mrs. Suzanne Kluczny, Mr. Colin Campbell, and Mrs. Phyllis Bourgeois. I would ask them to please rise and receive the warm welcome of this Assembly.

Recognitions

THE SPEAKER: Hon. members, today is the first day that new Standing Order 7(6) will be implemented. Just to reiterate to all hon. members, Standing Order 7(6) says the following:

When Recognitions are called on Mondays and Wednesdays, up to seven members other than members of Executive Council may make a one-minute statement of congratulations or recognition, which is not debatable.

The order in which the hon. members will be called is the order in which my office has been notified of an intent by an hon. member to present such a statement. The maximum amount of time allocated is one minute. At about 59 seconds you will see the chair stir, and at 60 seconds the chair will rise, and please, hon. members, that's the 60 seconds.

So this is the order in which we will proceed to today, and this is the order in which I have been notified of a desire by hon. members to proceed: first of all the hon. Member for Redwater,

followed by the hon. Member for St. Albert, followed by the hon. Member for Calgary-McCall, followed by the hon. Member for Edmonton-Beverly-Clareview, followed by the hon. Member for Edmonton-Centre, then Edmonton-Mill Creek, then Edmonton-Highlands.

The hon. Member for Redwater on this historic moment in the history of the Alberta Legislative Assembly.

Barbara Smerek's 111th Birthday

MR. BRODA: Thank you, Mr. Speaker. On December 14, 1997, I had the distinct honour and pleasure to attend a Christmas party and birthday celebration at Smoky Lake. The birthday party was in honour of Mrs. Warwara, or Barbara, Smerek, who celebrated her 111th birthday and was recognized as the oldest if not one of the oldest persons living in Alberta. She was born in Austria in 1886. At age 18 she married Mike Your from Poland, immigrated to Canada in 1918, and began farming six miles north of Waskatenau. Upon retirement they moved into the lodge in Smoky Lake. Several years later her husband passed away, and she married Micheal Smerek.

Over her lifetime she has seen many changes. She's gone through two wars. She's seen the change from horse-drawn buggies to modern transportation, the advent of electricity, and landing on the moon.

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

Women's Curling Championship

MRS. O'NEILL: Thank you, Mr. Speaker. On Sunday, the 1st of March, the Alberta ladies curling team, representing the Ottewell curling club and skipped by Cathy Borst of St. Albert, along with Heather Godberson, Brenda Bohmer, and Kate Horne, won the Scott Tournament of Hearts with the 11th end tie-breaker. This team of women's athletes demonstrated superior game skills and judgment, and they have truly brought glory to our province, honour to the Ottewell curling club, and joy to us in St. Albert, knowing that this successful team's skip is from our community. Of course I would not want to diminish in any way the gold medal glory won by our Canadian women's curling team in Nagano and other respective provincial champions. However, I would like to point out that our Alberta team won this tournament by playing against the best, and they won.

In conclusion, I'd like to make reference to the current debate about the status of curling as an international competitive sport. The intensity of training for this game of dexterity and strategy is laudable. Congratulations to Cathy Borst.

Bruce Howe

MR. SHARIFF: On Sunday, March 1, 1998, the northeast communities of Calgary hosted the Family and Community Pride in North East Calgary Celebration. At this event several awards were presented to individuals who have made significant contributions to society. One of the presentations was the Unsung Hero award. This award was presented to Mr. Bruce Howe, a constituent of Calgary-McCall. Mr. Bruce Howe is the father of Kelly Howe, who was brutally murdered in 1995 by her ex-boyfriend. She was only 19 years old at the time and the mother of a young infant. Mr. Howe volunteers his time talking to students about the dangers of violent relationships. So far he has spoken to some 7,000 students in 19 different schools. Last year Mr. Howe initiated a fund-raising campaign titled Kelly Howe

Star of Hope and raised some \$13,000, all of which was donated to local women's shelters.

On behalf of the citizens of Calgary-McCall I wish to congratulate Mr. Bruce Howe for his initiative. Mr. Howe is indeed the unsung hero of northeast Calgary, and I congratulate him.

Thank you.

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

Edmonton Swiss Men's Choir

MR. YANKOWSKY: Thank you, Mr. Speaker. I'm delighted to rise and give recognition to the Edmonton Swiss Men's Choir. Formed in 1981, they are in their 17th year of singing not only here in Alberta but in the United States and Europe. The choir consists of 39 members from an assortment of ethnic backgrounds and walks of life. The Edmonton Swiss Men's Choir holds membership in the 100-year-old North American Swiss Singing Alliance.

A notable accomplishment of the choir is their winning a perfect 100 percent score when they performed in front of three judges in Pittsburgh last July. This has never happened in the 100-year history of the alliance. The song, actually a hymn, that won them the award was the choir's rendition of *Vater Unser* or *The Lord's Prayer*, composed by Mahler. They took first place in a 1995 competition against 56 Swiss choirs in Switzerland. On March 9 they will be awarded a Salute to Excellence award in a ceremony hosted by the city of Edmonton.

We salute you, Edmonton Swiss Men's Choir.

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

Stewart Lemoine

MS BLAKEMAN: Thank you, Mr. Speaker. I am very pleased today to be able to recognize the first publication of two plays by Edmonton playwright Stewart Lemoine. This is a significant moment, as very few of the plays written and produced in Alberta ever get published. The plays, *Cocktails at Pam's* and *Evelyn Strange*, have been published by the Playwrights Canada Press.

Stewart Lemoine has been writing and directing plays since 1982. He has written more than 30 plays, several of which have received productions across Canada and in the United States. Stewart joins the ranks of other Alberta playwrights whose works have been published, including Ray Storey, Lyle Victor Albert, Frank Moher, Conni Massing, Sharon Pollack, Eugene Stickland, Brad Fraser, Ken Brown, Robert Clinton, Greg Nelson, and others.

I ask the Members of the Legislative Assembly to join me in recognizing this accomplishment of an Alberta artist.

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

1:50 International Day to Eliminate Racial Discrimination

MR. ZWOZDESKY: Thank you. Mr. Speaker, it's indeed a special privilege for me to rise on this historic, precedent-setting day, which marks the first day of official recognitions in this Assembly.

March 6 marks the official launch of activities for the International Day for the Elimination of Racial Discrimination. This event is again being undertaken by the Northern Alberta Alliance on Race Relations, a volunteer group of citizens who have as their

mission the elimination of discrimination and stereotyping, which, to our sadness, still prevails in our province and country. I therefore want to formally recognize NAARR and everyone involved in this important initiative, which, when accomplished even to the smallest degree, will immeasurably improve our society and will further the greater cause of understanding and acceptance among Albertans regardless of colour, creed, nationality, or country of origin.

Mr. Speaker, I've often said that racism is like a disease which embodies terms like ethnic cleansing, ghettoization, and apartheid. We must support groups like NAARR in their attempts to vaccinate our society against this disease and to eliminate discrimination once and for all for the good of all.

Thank you.

Mennonite Centre for Newcomers

MS BARRETT: I'd ask members of the Assembly to join me in congratulating the Mennonite Centre for Newcomers, Alberta's first recipient of the citation for citizenship. They employ 65 full- and part-time workers and hundreds of volunteers, helping some 3,000 immigrants annually in programs such as English as a Second Language, settlement and job counseling, and services for survivors of torture. I'm pleased to say that the centre is located in the riding of Edmonton-Highlands and contributes to the richness of this city.

head:

Oral Question Period

Alberta-Pacific Forest Industries Inc.

MR. MITCHELL: Mr. Speaker, the deal struck with Al-Pac means that this government is throwing away \$155 million in interest on the original \$260 million loan. This money would have kept 1,000 long-term care beds open, would have employed an additional 800 registered nurses, or would have employed an additional 600 teachers every year for the past five years. It's no wonder that the Premier doesn't want to accept any kind of personal responsibility for this deal. I am tabling four copies of the agreement in principle with Al-Pac dated October 31, 1990, with the Premier's name at the bottom. To the Premier: is this the agreement with Al-Pac that the Premier signed when he was minister of the environment on October 31, 1990, or did he sign other documents confirming that agreement and resulting in this \$155 million loss to Alberta taxpayers?

MR. KLEIN: Well, Mr. Speaker, I don't want to cop out, but that was then; this is now. I am no longer minister of the environment. I am the Premier of this province. When I was minister of the environment, I think that I had a very proud and honourable record. As a matter of fact, the hon. leader of the Liberal opposition had plenty of opportunity had he been on the ball and on his feet in 1991. He was the environment critic. Why didn't he ask the questions then? I mean, it's only been seven years. Does it take him that long to think up a question?

MR. MITCHELL: I did, and the Premier vigorously defended the Al-Pac deal back then, Mr. Speaker. We told him so. We told him so.

Will the Premier deny that he signed the June 29, 1990, letter of understanding formalizing the \$250 million loan agreement with Al-Pac, which has now resulted in the \$155 million loss to Alberta taxpayers?

MR. KLEIN: Mr. Speaker, if he will send it over, I will try to refresh my memory. You know, I don't go back seven or eight years in history. I'm looking ahead. I'm looking to the future of this province, and I'm looking forward to see something that we haven't seen for a long time.

MR. SMITH: Liberal leadership.

MR. KLEIN: Well, Liberal leadership is one of them. The other is a cheque in the amount of \$260 million. I mean, that is big, big money. He talks about what that will buy, Mr. Speaker, in terms of education, in terms of health care. Two hundred and sixty million dollars. Has he ever seen that much money?

AN HON. MEMBER: When he was in Principal. [interjections]

MR. KLEIN: Oh, yeah. Back when he was back with Principal Group maybe he saw that much money, Mr. Speaker, but a lot of people didn't see that much money.

MR. MITCHELL: Mr. Speaker, it's too bad the Premier wasn't looking forward when he started these health care and education cuts.

Will the Premier, then, confirm the commitment he seems to have made moments ago, that when he gets the \$260 million hard, cold cash that he says he's going to get from Al-Pac, he won't give it to the Treasurer but he'll give it to the health authorities and the school boards that need it to do their jobs, Mr. Speaker? Let's have that commitment.

MR. KLEIN: Mr. Speaker, it will indeed go to the Treasurer so we can start to earn something in the neighbourhood of \$250 million in interest to turn \$260 million into almost a half a billion dollars. That's what it's all about.

THE SPEAKER: Second Official Opposition main question. The hon. Member for Edmonton-Mill Creek.

MR. ZWOZDESKY: Thank you, Mr. Speaker. The Treasurer claims that part of his mandate is, and I quote, to be constantly vigilant to try and maximize the return to Albertans on all these previous loans and guarantees. Well, some vigilance must have been lacking yesterday, because Alberta taxpayers are going to lose \$155 million on the sale of the Al-Pac loans to multinational firms whose assets are in the billions of dollars. My question is to the hon. Provincial Treasurer. When this deal is completed and concluded with Mitsubishi and Oji Paper will the Treasurer confirm that unfortunately Alberta taxpayers won't receive even a single sweat-soaked loony from future profits of the Al-Pac pulp mill?

MR. DAY: Well, Mr. Speaker, I tried to give the opposition member credit for some period of time, because he was the one who said and has been saying for a long time that we should do everything we can to get out of these deals. Do everything we can to get out of these deals. I've been taking his advice and pursuing the ways in which we can maximize that return.

You know, they keep talking, Mr. Speaker, about \$155 million that we won't see. The Premier has just talked very clearly, far more articulately than I could, about \$260 million - that's a quarter of a billion - that we will see, that will from the day we get that cheque begin to gain interest, working it's way up to a

half a billion dollars by the same date, the year 2011, at which, if we did nothing and didn't try and get money back, we might have received a final payment.

This was a good deal, Mr. Speaker. Perfect? No. Good? Yes. And a deal that was encouraged by the member opposite.

MR. ZWOZDESKY: I'm always happy when the Provincial Treasurer takes my advice, but I'd like it all taken, not just part of it.

I want to know how it is that the Provincial Treasurer can say that the sale of these loans isn't like just some other shotgun deal, such as was done with Millar Western and others, when in fact he failed to negotiate a provision in this sale that would allow Albertans to share in future profits. You did that with others. Why didn't you do it here?

MR. DAY: We already talked about the future profits and the dividends, Mr. Speaker, that'll be coming to Albertans in the order of half a billion dollars. As I said, it's not perfect, but it's a good deal under the conditions, and that's the deal we're going with.

MR. ZWOZDESKY: My final supplemental is to the hon. Premier, Mr. Speaker. Given that the Premier says that he was not involved in the Al-Pac negotiations and has absolutely nothing to hide – and I want to believe him in that regard, believe me; I really do – will he, then, agree with my request to have the Auditor General perform a special duty review on the Al-Pac loan sale, as he did on the Gainers deal and as he did on the Swan Hills waste treatment plant? Will you do it also here and set the record straight, Mr. Premier?

MR. KLEIN: Well, Mr. Speaker, I have a letter from the hon. member which I have sent over to the Auditor General. Our office has been in touch with the Auditor General relative to – and I see it's not even signed by the hon. member; it's signed by some name per, you know, who obviously did the research and framed the questions. Our information is that to have the government do a special study – and these are very detailed questions, and I'm sure, I am absolutely sure that the hon. member didn't think about these questions. These are accounting questions.

- details of review mechanisms put into place in the September 4, 1991 agreements between the Government of Alberta and Al-Pac and an indication of where the government contemplated using these mechanisms at any time prior to the November 10, 1998 buy-out.

What does he mean by that? That's only one of the questions. I would like him to tell me what he means by that.

2:00

I'll go on to the next.

- details of any termination or buy-out provisions in the September 4, 1991 agreements between the Government of Alberta and Al-Pac.

Here's another one.

- an evaluation of the sharing of risk between the Al-Pac joint venture partners, the syndicated banks in the Province of Alberta under the September 4, 1991 agreements.

He didn't dream these questions up, Mr. Speaker.

- exposure to Alberta taxpayers by requiring loan principal and interest to be based on cash flow thresholds and pulp prices that more closely approximated the actual risk assumed by the partners to the September 1991 agreements (i.e. the banks, the joint venture partners and the Province of Alberta).

Mr. Speaker, he did not dream up that question.

It's not even signed by the hon. member. It's signed by a researcher who probably hired an accountant to ask these questions.

Mr. Speaker, I have referred these questions to the Auditor General, but the Auditor General advises me that by limiting himself to those particular technical questions that were not prepared by the hon. member, then he is limited in his review. He said that if he wants to do a proper review, give him the leeway to have the scope, and that's exactly what we're going to do.

THE SPEAKER: The third Official Opposition main question. The hon. Member for Edmonton-Meadowlark. [interjections]

Hon. members, the chair has recognized the hon. Member for Edmonton-Meadowlark, and he actually would like to hear her.

Health Care System

MS LEIBOVICI: Thank you, Mr. Speaker. Last week the Minister of Health denied that health care is in a crisis. Yet yesterday the Premier admitted that there's a little bit of a crisis, and Edmonton city council unanimously passed a motion urging the government to increase funding to the capital health region. My question to the Minister of Health is: what don't you understand about the word "crisis"? Both the Premier and the city of Edmonton obviously understand what it means.

MR. JONSON: Mr. Speaker, I think I well understand the definition of "crisis." I would like to take the opportunity to clarify, if the hon. member is not aware, that certainly as Minister of Health I was surprised at the difficulties, the challenges that the regional health authority was experiencing. I observed in this House that in credit to the regional authority board and the physicians and the nurses, all the team working in the regional health authority, they were coping with a very extraordinary period of demands upon their emergency services. That is what I said.

MS LEIBOVICI: Is the minister prepared to table in the Legislative Assembly today a list of the regional health authorities who requested additional money and the amounts they have requested?

MR. JONSON: Mr. Speaker, certainly we are in contact with this regional health authority in the city of Edmonton and other regional health authorities. I have met with four or five regional health authorities over the last short period of time. I will be meeting, as outlined yesterday by the Premier, further in the coming week. I have certainly received numerous questions and proposals, but I have not received any overall documentation from that body that is being referred to.

Speaker's Ruling Decorum

THE SPEAKER: It's interesting. A member of the Executive Council of the government was responding to a question, and he was almost drowned out by comments that were coming from the government side. Just as interesting, the hon. Member for Edmonton-Meadowlark was raising a question, and she's almost drowned out by comments coming from her side. Gee whiz, there's one on each side. I'm sure the hon. members would like to hear the question and hear the answer.

Hon. Member for Edmonton-Meadowlark, would you continue, please.

MR. HAVELOCK: Point of order, Mr. Speaker

Health Care System
(continued)

MS LEIBOVICI: Thank you, Mr. Speaker. My third question is to the Provincial Treasurer. Will he let the regional health authorities know how much he can spare to solve the crisis? What's your bottom line? [interjections]

MR. DAY: Mr. Speaker, we were so enamoured with your attempt to settle down the noise that was going on that we're just going to have to ask for a repeat of that question.

THE SPEAKER: Actually, no. We're going to move on to the leader of the ND opposition, please. [interjections]

MS BARRETT: Do you guys like heckling me?

Economic Development Staffing

MS BARRETT: Mr. Speaker, last year in his now infamous speech to a Toronto privatization conference the now Minister of Energy bragged about how he'd cut out all the fat at the top levels of the Department of Economic Development. We know the government likes to brag about how much it cuts its bureaucracy, but it's pretty clear that the government's real priority is cutting frontline staff and not their top level mandarins. I'd like to ask the Minister of Economic Development why she has hired three new assistant deputy ministers and three additional executive directors since she became minister just 10 months ago.

MRS. BLACK: Mr. Speaker, clearly when I moved into the portfolio, I was completing the restructuring of Economic Development that had been started by the previous minister. Through a thorough review with an outside consultant, Coopers & Lybrand, we determined that Economic Development had to be shaped in a different direction, and that meant structuring it differently and of course putting senior management people in charge of certain areas and divisions. That created the three ADM positions.

MS BARRETT: Well, how can the minister justify having such a top-heavy bureaucracy consisting of a deputy minister, three assistant deputy ministers, eight executive directors, and 49 directors; in other words, 61 senior managers in a department that's only got 190 employees?

MRS. BLACK: Well, Mr. Speaker, if the hon. member would follow through on the whole realignment of the ministry, she would clearly see that the people that have been in this ministry have been deployed into different areas. Through a manpower and training process we have moved people around and shifted them into areas where their background is best suited to the positions we want them to handle. That has meant moving people from areas that were mainly central in the department out into the regional areas such as, again, re-establishing the collocation office in Calgary and the one in Red Deer. So we are still in the process of realigning people, and those positions have been shifted dramatically.

The clear positions that are firm today are the deputy and the three ADM positions plus one executive director that handles finance and administration. The process is still ongoing, and those functions are changing. The realignment is continuing on.

MS BARRETT: Well, as this process of unfolding occurs, will the minister tell the Assembly how she can justify the transferring of the investment and business attraction branch of the department from Edmonton, the capital city, to Calgary, and is she planning even more staff transfers to Calgary, which would be typical of what this government has been doing in the last five years?

MRS. BLACK: Mr. Speaker, it's unfortunate that the hon. member wasn't in attendance at the estimates last night when we talked . . . [interjections] Oh, I'm sorry. I'll retract that. I apologize.

Clearly with the restructuring that we have gone through, we are moving people not only within the ministry throughout the province but across ministries to make sure that we have people in the best places throughout government. If you looked at our business plan where you can see the tearing down of the silos between departments to have government working as a team concept for Economic Development across ministries, you can see people moving back and forth so that they're in the best positions based on their background.

Furthermore, the interesting part of the realignment is that clearly people will be moved where there is a need for that person to be. If that means it's in Red Deer or Calgary or Grande Prairie or Edmonton, people will be deployed throughout the province.

THE SPEAKER: Well, maybe we'll have more luck with the hon. Member for West Yellowhead, followed by the hon. Member for Calgary-Buffalo.

2:10 Alberta Tourism Partnership

MR. STRANG: Thank you, Mr. Speaker. As you realize, as the Member for West Yellowhead constituency, with tourism being so popular in the province I've been receiving many calls from Albertans who are asking what happened since the announcement to cancel the contract with the Alberta Tourism Partnership Corporation was made. I'd like to direct my question to the hon. Minister of Economic Development. Can the minister tell me what progress has been made?

MRS. BLACK: Mr. Speaker, I'm very pleased to be able to announce to the Assembly that through lengthy and extensive discussions with the Alberta Tourism Partnership Corporation we have come to an agreement that effective March 1 Price Waterhouse will assume control of the day-to-day delivery of marketing and promotion of the Alberta Tourism Partnership Corporation.

I'm also very pleased to announce today to the Assembly that the marketing staff of the Alberta Tourism Partnership Corporation will be offered employment by Price Waterhouse to ensure that there's a continuation of this marketing and promotion of Alberta tourism. I think it's a step in the right direction.

This agreement, Mr. Speaker, I believe is in the interest of the industry. It will also ensure that the expertise that is there at ATP will be continued and will be available to the industry. It will also have a positive effect, I believe, in continuing on with the promotion of this industry, and it will address the issues that were raised by the Auditor General in looking at performance measures. Let me reiterate, as I have from the very beginning, that our government is very committed to the promotion of tourism and to the ongoing funding of that promotion.

MR. STRANG: Thank you, Mr. Speaker. My first supplement

tary is to the same minister. Can the minister tell us today the plans to develop the new request for proposals on this new contract?

MRS. BLACK: Mr. Speaker, from the very beginning there have been three major objectives of making this move. One was to maintain the presence of the industry and the continuity within the industry. Another was to preserve the intelligence of the staff that were with ATP and the employment of those people. The other was to put forward a proposal that was clearly transparent, open, and fair. We will be announcing shortly a very broad-based industry consultation process, and the input from the industry will be shared with the stakeholder group and the interim management team as we put forward the basis for the request for proposals. We want to have this process completed as quickly as possible as we want to have the contract let, but it will be open and fair and available to the industry and based on industry dialogue along with ratification by the Auditor General of the performance measures before the RFP goes out.

MR. STRANG: Thank you, Mr. Speaker. My second supplementary is: will the same minister advise me if the Alberta Tourism Partnership Corporation will be able to bid on this new contract?

MRS. BLACK: Well, Mr. Speaker, this is going to be a very open process and fair to all. Under this agreement that we have reached, the staff members that will be offered employment by Price Waterhouse to go through the transition process will move over and work with Price Waterhouse. There will be some people who will stay with Alberta Tourism Partnership Corporation. It is a corporation, and they will be given the same fair treatment as any other person wanting to bid on this contract. It is an open and fair contract. Let me make it very clear that the contract has been taken over by Price Waterhouse effective March 1, and the process will be open to all bidders, including ATP.

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

Health Care System

(continued)

MR. DICKSON: Thank you, Mr. Speaker. Albertans looking for action on our current health care crisis are mystified. The Premier's plan to deal with this crisis is still very foggy. After all, it's still unclear just who's going to solve the crisis: the Provincial Treasurer, the Health minister, the council of RHA chairs, some new task force. My question is to the Health minister this afternoon. Since the Premier and the minister have steadfastly ignored since at least the middle of January of this year the advice they received from regional health authorities as to their needs, what's the point of yet a further process of more and more meetings? What's the point, Mr. Minister?

MR. JONSON: Well, Mr. Speaker, before addressing the question directly, I do have to comment that I find the question somewhat ironic, inconsistent, in that I can recall several times when questions have been posed from across the way about there not being enough consideration, enough consultation. Of course we do always try to consult and seek the views of Albertans.

With respect to the issue that the member is alluding to, the overall funding situation with respect to regional health authorities in this province, as the Premier has indicated in this House, we

are certainly open to listening to and meeting with the regional health authorities, looking at the issues they bring forth and also putting forward some of the initiatives and views that we have on the matter of funding. That is the way we will consider this overall issue. Certainly we take under advisement the representation we receive.

MR. DICKSON: Mr. Speaker, since the statutory mandate of regional health authorities includes to assess on an ongoing basis the health needs of the health region, to determine the priorities in the provision of health services in the health region, the RHAs appear to have done their jobs. Why won't the Minister of Health do his and provide the funds necessary since patients are at risk every day this government delays?

MR. JONSON: Well, Mr. Speaker, it's not that many days ago, but on February 12 the budget of the province of Alberta was put forward. Prior to that, in January, to give lead time to regional health authorities, we announced funding for the coming year. I could use different examples, but in the example of the Capital health authority, some over 50 millions of dollars announced, another \$33 million approved through supplementary estimates for eliminating their debt. A very, very significant response has been provided through the budget. So certainly that is being addressed and will be addressed further.

MR. DICKSON: My final question, Mr. Speaker, would be this: will the Minister of Health commit in the House this afternoon that the minute the regional health authorities have made it clear enough so that the Alberta Health officials understand what the need is, the funding will be available immediately, whatever that number is? Will he make that commitment in the House this afternoon?

MR. JONSON: Mr. Speaker, the delivery of health in this province is of extremely great importance to the province of Alberta. With respect to decisions that we make pertaining to our regional health authorities and the overall health care system, we will only do that after careful and deliberate consideration, and we will make our decisions in due course in the way we think is best for the province overall and for the health care system.

Child Welfare

MR. DOERKSEN: Mr. Speaker, my questions today are for the Minister of Family and Social Services. Last month in Red Deer a four-year-old child died tragically while in the care of his natural mother. At that time and immediately following the child's death, the minister announced that he would request an internal review of this case. Would the minister please advise this Assembly what the status of that investigation is?

DR. OBERG: Thank you very much, Mr. Speaker. The hon. member is entirely correct. At the time of the tragic incident in Red Deer, I asked for a complete investigation, and I received the complete investigation today. It is now finished. I must also mention to the hon. member that there are two other investigations under way. There is a criminal investigation associated with a criminal case. The medical examiner has the option to hold a fatality review inquiry following the criminal case as well.

2:20

MR. DOERKSEN: Mr. Speaker, can the minister at this time share the findings of his review of this case?

DR. OBERG: Thank you, Mr. Speaker. I would be more than happy to. The one issue that we have is that we have been advised by the Justice department that because this case is under criminal review, because it is before the courts, we cannot release the report until the criminal case is finished. I will say to the hon. member that there were some very good observations put forward by this committee, and these observations will be looked at extremely seriously and action will be taken.

MR. DOERKSEN: Again to the Minister of Family and Social Services: given the importance that this case represents to the policy in child welfare, will the minister commit that he will release the findings of this review once the criminal trial is completed?

DR. OBERG: Yes, Mr. Speaker. I believe that this trial and this case represents a very important aspect of Family and Social Services. This is a child that potentially has fallen through the cracks. Once the criminal case is complete, I will be more than happy to release the data and the report on this case.

THE SPEAKER: The hon. Member for Edmonton-Mill Woods, followed by the hon. Member for Calgary-North West.

Private Schools

DR. MASSEY: Thank you, Mr. Speaker. The government's handling of private school funding grows suspect. A private member's bill, a special provincial task force, an announcement of funding support before that task force reports, and now a leak to the press that funding for private schools will be increased by 20 percent. My question to the Minister of Education: is all of this but a roundabout way of diverting more public funds to private interests?

MR. MAR: Mr. Speaker, the task force was created in response in part to the private member's bill. The purpose of the task force was to canvass the opinions of Albertans on the subject of the role private schools have in the delivery of education in the province of Alberta. The hon. Member for Calgary-Glenmore, who was charged with the responsibility of undertaking this job, has done an exceptional job. He has traveled to eight communities throughout the province and held public meetings. There have been 400 people who made presentations to those meetings. Twelve thousand people have expressed their interest in writing on this particular issue.

This is no different than other task forces that government has charged with a responsibility of canvassing the opinion of Albertans. At this time the task force report has been submitted to government, and as has always been the practice of this minister and of this government, once the report has been reviewed by our respective committees of government, we will be prepared to table a response to it at that time.

DR. MASSEY: Thank you, Mr. Speaker. Will the minister give us a new date, then, when we can expect the report of the task force?

MR. MAR: Well, Mr. Speaker, I won't commit to a particular date except to say that as has been my practice and the practice of other ministers in this government, this report will be made a public document once it has had the opportunity to be reviewed by our standing policy committees, our caucus, our cabinet. That

has always been the practice of this minister, and that's been a consistent practice over the last five years, as I know the hon. member is aware.

THE SPEAKER: The hon. Member for Calgary-North West, followed by the hon. Member for Edmonton-Calder.

Sour Gas Well Drilling

MR. MELCHIN: Thank you, Mr. Speaker. The energy sector is of vital importance to the constituents of Calgary-North West, as to all of Alberta, as well as concerns with health and safety factors related to the energy sector. A number of my constituents have contacted me with regards to a concern they have with a proposal of Canadian 88 Energy Corporation to drill a level 4 sour gas well just outside the city limits. They are organizing at this stage to prevent the drilling of such a well. To the Minister of Energy: what process is there for their concerns to be heard, and what criteria might the Energy and Utilities Board use to approve such a sour gas well?

DR. WEST: Mr. Speaker, the drilling of sour gas wells of level 4 nature is of concern to the AEUB, and they take every precaution and every hearing available to the public to ensure that their concerns are heard and safety is addressed. The constituents of yours did come forth on February 23 and express these concerns, and therefore the review of the application was put forth to May 4.

The EUB has set out some specific criteria as it relates to the drilling of sour gas wells. It requires companies to evaluate the potential hydrogen sulphide release rate of every well which will penetrate formations that may contain H₂S and to plan for safe drilling operations consistent with potential occurrences. Each application for a well licence must include the results of that evaluation. As you said, this is a level 4 sour gas well, and it has the potential release of 6 cubic metres of sour gas or greater. It has a minimum location that it must be away from residential dwellings or unrestricted country development.

The board will be listening to this application and the concerns, applying these criteria to its location, and will be coming forth with a decision.

MR. MELCHIN: Mr. Speaker, again to the Minister of Energy: what regulatory control do we have to protect the health and safety of the public given that sour gas is dangerous and that exposure can cause problems ranging from simple headaches at low levels to death at higher levels?

DR. WEST: Mr. Speaker, there was some heckling here as it related to ecological reserves, but when we get through looking at an application in the province of Alberta, anywhere that well is drilled, it is drilled in a safe manner. I would have it understood that whether it's an ecological reserve or outside the city of Calgary, the same precautions are taken for the human risk as well as the environmental risk. So I find that those type of comments totally misunderstand the resource industry direction in the province of Alberta.

Looking at the question, to look at what regulations are in place in drilling such a well, special equipment, procedures, training, and safety devices are required. These include a special drilling plan that includes casing details, blowout prevention, stack configurations, BOP manifold configurations, mud gas separators which remove sour gas from the drilling mud which stabilizes

pressures in the well bore and drill pipe. Special well-monitoring equipment is also used, such as continuous sulphide monitors, ambient sour gas detection equipment, automated mud tank volume monitors, and indicators for measuring hook load, pump pressure, and pump strokes per minute, to name only some of the systems and devices. Also, there is special training to work on sour gas wells. On-site supervisors, rig managers, and drillers must have current sour well certification and experience in drilling sour wells. On-site service personnel, such as mud men, loggers, and geologists, must also have previous experience in sour well drilling operations.

MR. MELCHIN: My final question, Mr. Speaker, is again addressed to the Minister of Energy. What's the track history of the other sour gas wells in Alberta, and are there other sour gas wells within the proximity of highly populated areas?

DR. WEST: Mr. Speaker, there are other gas wells close to residential areas. In fact, the level 3 and level 4 have the same requirements to provide a .1 kilometre separation distance between it and any dwelling where there are residential areas, as well as a .5 kilometre separation distance between it and any unrestricted country development.

The other question is: have we had any problems with sour gas wells, and what is the safety record of Alberta? It is excellent when you take it on a worldwide basis, and the specifics of that I'm going to bring forth in a report on sour gas wells and their history. That doesn't mean there haven't been some occurrences in certain areas, but the technology advancements and research done and safety requirements since those has made Alberta one of the safest places in the world to drill for sour gas.

THE SPEAKER: The hon. Member for Edmonton-Calder, followed by the hon. Member for Wetaskiwin-Camrose.

2:30

Forest Management

MR. WHITE: Thank you, Mr. Speaker. This is a copy of the Alberta forest conservation strategy and its attendant documents that went into it. It, in fact, is the culmination of some 800 Albertans putting their time into a document, mostly on a volunteer basis, and this, sir, is the government's response to the culmination of all that volunteer work. This, sir, is called The Alberta Forest Legacy: Implementation Framework for Sustainable Forest Management. My questions are to the minister of environment. Sir, is this painfully thin document all there is for the government's policy on forest management?

MR. LUND: Mr. Speaker, actually the Forest Legacy document also brings in the expert panel report that we have and combines that in with the forest conservation strategy. The Forest Legacy document is an implementation plan that will deal with the issues that were addressed in the forest conservation strategy. As a matter of fact, we also took some information out of the report from the Round Table on Environment and Economy, so the Forest Legacy document, in fact, is a greater collection of information and science that we will be using in the future as we move forward to ecological management and sustainable development in the forest industry.

MR. WHITE: Mr. Speaker, my question further to the minister: if this document is entitled Implementation Framework for Sustainable Forest Management, then why is it there's absolutely

nothing specifically in this document as it relates to any biological diversity and guarantees of biological diversity in the province?

MR. LUND: Mr. Speaker, if the hon. member would take the time and get the other reports I have mentioned, he would find that, in fact, the information in the Forest Legacy document relates back to the scientific information in those other reports I referred to.

MR. WHITE: Mr. Speaker, to the minister: where in this painfully thin document are there any specific directions as to how the forests are to be managed and conserved for the betterment of all Albertans? Where? Anywhere?

MR. LUND: Well, Mr. Speaker, I guess the hon. member's problem is that we don't have things laid out in a massive document. Probably he would like to have a video. We don't have that. But the fact is that if you search through the document, you will find that it lays out a plan on how we can move forward with managing our forests in an ecological setting and how we can move forward in a sustainable forest management regime.

THE SPEAKER: The hon. Member for Wetaskiwin-Camrose, followed by the hon. Member for Edmonton-Gold Bar.

Dutch Elm Disease

MR. JOHNSON: Thank you, Mr. Speaker. For the past several years Dutch elm disease has been making its way west and north in North America to the point where it now threatens the elm trees in Alberta. This dreaded disease is of concern to many Albertans, including many in my constituency. To the Minister of Agriculture, Food, and Rural Development: is there evidence that this disease has actually made its way into Alberta, and if so, what is your department doing to prevent or control this destructive disease to our elm trees?

MR. STELMACH: Thank you, Mr. Speaker. There have been a number of beetles trapped in the province of Alberta. However, there is no evidence of Dutch elm disease following complete monitoring of the trappings of the beetles.

MR. JOHNSON: Are there varieties of elm trees resistant to Dutch elm disease, and can they be grown in Alberta?

MR. STELMACH: There are, Mr. Speaker, a number of varieties of Dutch elm disease resistant trees that can be grown in the province. However, our concern is with the trees that are presently mature. We're monitoring those with the help of municipal jurisdictions to ensure that none of them are infected. If there is any sign of any infection on the trees, we will promptly work with those municipalities to remove, prune, and properly dispose of the contaminants.

THE SPEAKER: The hon. Member for Edmonton-Gold Bar, followed by the hon. Member for Bonnyville-Cold Lake.

Pine Shake Roofing

MR. MacDONALD: Thank you, Mr. Speaker. There are still more problems in the Department of Labour. The latest victims of this department are the 10,000-plus homeowners in northern Alberta who have installed pine shake roofs since 1992. Despite

getting product approval from the department, these untreated pine shake roofs have already started to deteriorate. Homeowners and prospective homeowners need to know about this serious problem. My questions are for the Minister of Labour. On what basis did your department give product approval for the use of these untreated pine shakes?

MR. SMITH: Well, Mr. Speaker, the untreated pine shakes have been used in Alberta for over 10 years. They estimated that the life expectancy of pine shakes would be as long as 25 years, similar to that of cedar. What has happened is that with untreated pine shakes subject to weather conditions in roofing applications, there is some evidence of premature decay caused by a fungus which thrives under moist conditions, which is to say that there indeed may be a fungus among us.

Not only are we raising the roof in Alberta in unparalleled amounts of new construction; we are also looking at raising the standards in the Building Code. We will look very carefully at the use of only treated shakes. I would expect that the new Building Code would be out for discussion very shortly, Mr. Speaker.

MR. MacDONALD: Mr. Speaker, to the Minister of Labour again: when did your department learn of this serious problem, and why has your department not done anything to inform the homeowners, for instance, in Stony Plain, St. Albert? Why have they . . .

MR. SMITH: Mr. Speaker, the department does not approve or disapprove the use of products in the marketplace.

MR. MacDONALD: I didn't hear his response, Mr. Speaker.

Speaker's Ruling Decorum

THE SPEAKER: I'm not at all surprised at that, hon. member. I've heard very few questions and very few responses. This has not been a good day for this Assembly in terms of the eyes of the people of Alberta. I could you assure of that.

I believe you've had your third question now. Please proceed with your supplementary.

Pine Shake Roofing (continued)

MR. MacDONALD: Will the Department of Labour be compensating these homeowners for the cost of fixing their roofs since your department's building standards were completely wrong?

MR. SMITH: I can only reiterate, Mr. Speaker, for the good graces of the member, that the department neither approves nor disapproves the use of any products.

THE SPEAKER: The hon. Member for Bonnyville-Cold Lake, followed by the hon. Member for Edmonton-Centre.

Adult Education

MR. DUCHARME: Thank you, Mr. Speaker. Yesterday I posed questions to the Minister of Advanced Education and Career Development about the fairness of adult education fees. To the same minister. You replied that publicly funded adult education services were provided by the Alberta Vocational College of Lac

La Biche. I believe you misunderstood my question, as I knew that AVC offered upgrading to adults so that they can complete their high school and get some pre-entry employment training. So I'll try again. Is it fair that adults requiring upgrading courses to maintain or expand their employment have to pay higher fees for courses offered by private providers compared to Albertans who have a college in their community?

2:40

MR. DUNFORD: Well, first of all, Mr. Speaker, I'll apologize to the member if there was any misunderstanding on my part for the question yesterday.

Mr. Speaker, to answer directly the question, this ministry cannot guarantee that we would have a postage-stamp service in terms of delivery of postsecondary courses throughout the province. What we need to do, I think, in this particular case is make sure that any adult that finds himself in that particular situation works closely with his career development centre to see if there's some way in which we can come to grips with this question that's being asked.

MR. DUCHARME: Thank you, Mr. Speaker. To the same minister: will the minister consider providing government-funded adult education courses? These programs have already been established. Could they be provided at no charge to these private providers in these communities where the colleges do not exist?

MR. DUNFORD: Well, I think that to address that one, I want to say again that we are not in the business of providing grants just automatically to private vocational schools. What we need to do is work through the career development centre up there. We're very proud of the career development network that we have throughout this province. If there's an adult that finds himself in this situation, go to that centre. What we are trying to do here in the province, Mr. Speaker, as much as we can, is have money follow the student. That's what we'd want to do again in these particular cases.

THE SPEAKER: The time for question period has now left us.

head: **Statement by the Speaker**

Designated Departments under Standing Order 58(7)

THE SPEAKER: Hon. members, prior to dealing with the three points of order that have arisen today, I do want to deal with a matter that I've received some correspondence on. The chair has received some communications outside the House concerning the designation of departments' estimates under Standing Order 58(7). I would like to share with all members the chair's interpretation of this provision. You all have copies of the Standing Orders if you want to take a look at 58(7).

For the benefit of members, Standing Order 58(7) states:

A department's estimates may not be designated under this Standing Order if consideration of those estimates has been concluded or the department's estimates have been previously designated under suborder (4).

So the two in question are 58(7) and 58(4). Oddly enough, this provision is one of the clearer and less ambiguous provisions in our Standing Orders.

If one were to take the example of our Treasury estimates, that were designated by the Leader of the Official Opposition for consideration by the Committee of Supply on Thursday, February 26, 1998, of course the estimates were not considered that

afternoon as the ordinary business of the House was adjourned due to the successful Standing Order 30 application. The provisions of Standing Order 58(7) do not, however, stipulate that the estimates be considered, only stipulate that they must be designated.

Accordingly, the estimates of Treasury or of any other department that has been previously designated, such as Executive Council, cannot – I repeat cannot – be designated again for consideration on a Thursday.

In the case of all three purported points of order, I say exactly that: purported points of order.

The hon. Member for Edmonton-Mill Creek.

Point of Order Imputing Motives

MR. ZWOZDESKY: Thank you, Mr. Speaker. I rise under a very unusual circumstance, because I don't think I've ever had to stand on a point of order in this Assembly before. I may stand corrected, but I believe this is the first time.

THE SPEAKER: Sorry, hon. member. There's nothing unusual about your not having stood before on a point of order. Let's get to the point of order with the proper citation and move forward.

MR. ZWOZDESKY: Thank you. The point of order specifically, Mr. Speaker, is item 23(h), where the order states that it is improper for any members to make allegations against other members and that it's improper for members to impute "false or unwavering motives to another member."

As you'll recall, Mr. Speaker, this surfaced when the Premier was responding to a question during question period today. I feel very strongly that I was somewhat slandered by the Premier's comments. I don't engage in cheap shots. That's not my style. I think the Speaker and all members of this Assembly know that that's not one of my tactics. For the Premier to allege that a letter bearing my name and on my letterhead was not authored by me and not authorized by me is a very serious allegation that is not only unfounded, but it's untrue and it's damaging to my personal character and my integrity.

The fact is that the letter I sent to the Premier was dictated by me, and it may contain some technical language which perhaps he's not familiar with. And I say that politely, because it has been a long time since he's looked at it. That technical language appears in the actual Al-Pac agreement, which I have read not once, not twice, but three times so that I knew where I was going on this issue. I've been very careful with it, but I've been persistent on it. Since the province sprang the Al-Pac announcement on us during question period yesterday, virtually with no advance notice, and since the Assembly sat until 5:30 p.m. yesterday – and I was here for that – there was time only to dictate a letter as quickly as I could and get it to the Premier as quickly as I could before the close of the business day.

All members of this Assembly, Mr. Speaker, make every effort to sign their own correspondence, and we all appreciate that. I, in particular, am very careful to steadfastly adhere to that principle. I sign virtually all of my own stuff. I read it carefully, and I edit it. But on occasion, such as yesterday, and because of unusual circumstances created by this sudden announcement, some correspondence had to get dictated – and that particular one did – to meet the pressures of the deadlines before us.

I believe all members of this Assembly have occasionally found themselves in similar situations, but I would never stoop so low

as to criticize them on that petty point. I believe that the Premier's accusation imputes a false and unavowed motive to me and possibly to other hon. members of this Assembly who on occasion find themselves in that occasional spot, and I know for a fact that some cabinet ministers do. I don't criticize them for it, because I appreciate how busy they are and how hard they're trying to do their jobs.

I want to draw the Speaker's attention to a letter dated November 10, 1997, which I personally wrote and personally signed and delivered to the Auditor General. This letter deals with the potential sale of the Al-Pac loans, and it contains some sophisticated language as well, similar to the language that I used in my letter of yesterday, which is very much in keeping with my style as a former English teacher, and I don't wish to apologize for that. The terms "cash flow thresholds," "assessment," "evaluation adjustments," and "reviews of special negotiations" are not beyond anyone's scope. They are consistent with terms that I've used in this Assembly during question period on the Al-Pac loan, during estimates on Treasury, and during numerous other questions.

I find it highly, highly disrespectful for anyone to suggest that a letter that appeared on my letterhead was not authorized by me, as the Premier claimed, was not penned by me, as the Premier claimed, and even suggested somehow subliminally that perhaps I didn't even understand it. I think that is a very serious, serious allegation against me and possibly other members here.

Mr. Speaker, I'll also draw your attention to another letter, which I wrote today, earlier this morning, to the Auditor General. It contains some similar language, and because I had a little more time, I again wrote it, dictated it, edited it, and personally signed it before it went out. It contains very similar phrases to what has already been there.

Shall we start going through all correspondence of all hon. members to see if they all personally signed it and if they all had the time? I don't think so. I find it an abrogation of the greatest charge. The Premier has tarnished me personally on this one. I will not stand by with this. I will expect some retraction of those comments, and I would expect some apology because it has implications much broader than on just this member.

2:50

While I have put up with many things in this Assembly – and I know that other members have as well; it's part of the ebb and flow – I'm not prepared to let this one go. It's a hill I'm prepared to die on, Mr. Speaker, and I will do that, because this is a direct slight on the use of letterhead and on the use of my authority of that letterhead. I take that very seriously. I do not let anything go out that would tarnish anybody in this Assembly, much less the Assembly itself.

I feel very privileged to serve this Assembly in a number of capacities, not just as the representative of Edmonton-Mill Creek but occasionally as chairman and also on occasion to sit in your honoured chair, Mr. Speaker. I would do nothing to tarnish that, and I want to make sure that other members understand the gravity with which I'm putting this forward. A simple apology and a retraction on this point of order and your subsequent ruling would be very much welcome and appreciated, sir.

Thank you.

THE SPEAKER: The hon. Government House Leader.

MR. HAVELOCK: Thank you, Mr. Speaker. Certainly if emotion and repetition counted, then the Member for Edmonton-

Mill Creek would be successful in his argument. But it doesn't count, and in fact the rules are not intended to apply to trivial matters.

What the Premier was referring to were the detailed and difficult technical questions which were included in the letter from the member. It was simply the Premier's interpretation that in light of the complexity of the questions and that in fact the member had not signed the letter, he could not have drafted it on his own nor prepared it on his own. Thus, it being a question of interpretation, it does not constitute a point of order.

Also, Mr. Speaker, while I don't believe *Hansard* caught it, there was an exchange between the Premier and the member where the member admitted to the Premier that he had not prepared the letter on his own but had had some assistance, and that was the point that the Premier was simply trying to make. Therefore, there's no point of order.

THE SPEAKER: On this point of order?

MR. SAPERS: Yes, Mr. Speaker. I want to also refer you to *Beauchesne* 494, Acceptance of the Word of a Member, where it says:

It has been formally ruled by Speakers that statements by Members respecting themselves and particularly within their own knowledge must be accepted.

Mr. Speaker, the Premier did not make a simple observation that perhaps the Member for Edmonton-Mill Creek had assistance in drafting the letter. He repeated that accusation several times in his comments, and I think a review of *Hansard* will show that the intent of the Premier was to discredit the Member for Edmonton-Mill Creek, who had asked in that correspondence very specific and technical questions. Whether or not the Member for Edmonton-Mill Creek had assistance in drafting the letter is not relevant. What is relevant is that the Premier used his position of authority and his time in question period, in responding to a question, to discredit the Member for Edmonton-Mill Creek. That is unparliamentary, that is unacceptable, and the Premier should apologize.

MR. ZWOZDESKY: Am I allowed to simply clarify that I had assistance?

THE SPEAKER: No. You've already commented, hon. member.

Today all in all was not a good day for this Assembly, not a good day at all. It does not bring honour to anybody in fact. I'm going to apologize. I want to apologize to the young people in the galleries and students at the University of Alberta, who think that their elected representatives should perhaps respond in a different manner than they did today.

The comment was made in this exchange with respect to this point of order that perhaps there was a personal exchange that may or may not have been caught by *Hansard*. The only thing *Hansard* is going to get are comments forthcoming by individuals who are recognized by the chair, other than of course periodically some rather innocuous ones.

The hon. Member for Edmonton-Mill Creek has certainly risen under Standing Orders 23(h) and (j), and the question is: what has, in essence, been violated? There certainly was a difference of opinion, and I guess the key reflection that one has to have with respect to the Standing Orders is if actually any personal allegations have been made. Now, the chair is in an incredible position. The chair doesn't know what letter everybody's talking about. So if a letter is sent and someone says that this letter wasn't signed, that's what the chair has to go on. It doesn't have

a copy of the letter in here. If it's a fact that somebody's signature was on a particular letter, the chair has to deal with that. How or why someone else didn't sign it may or may not be important, but the fact of the matter is that the hon. member did have an opportunity to raise a point of order. He certainly was given an opportunity to refute publicly comments in *Hansard* in terms of any suggested violation or allegation that may have come under Standing Orders 23(h), (i), and (j).

In terms of the chair's view, whether or not there were any personal allegations made is really the fundamental question. In listening to the exchange, there was an exchange when both parties were recognized in the Assembly to have the floor. The chair listened very carefully to those exchanges and would have intervened if in fact the chair would have believed a personal allegation that would have been disreputable to someone's reputation had been made. The chair did not hear such. Now, there were a lot of other exchanges going on, and it may very well be that in the case of some of those other exchanges certain things did happen.

The bottom line is that there was an opportunity to raise a purported point of order, and there was also an opportunity given to the hon. member who rose with the point of order to simply refute the facts as he understood them and, in this case, to refute the Premier's comments. These comments are in *Hansard*, and the comments can be used by the hon. member in the manner in which he chooses. I think that perhaps that clears that matter.

The hon. Government House Leader.

Point of Order False Allegations

MR. HAVELOCK: Yes. Thank you, Mr. Speaker. Through his reference to a letter dated October 31, 1990, during question period today, I believe the Leader of the Opposition breached Standing Orders 23(h) and (i). What he attempted to do through the use of this rather innocuous document while the cameras were rolling was support his argument that the Premier in some way had personally done something wrong with respect to the Al-Pac negotiations.

I've examined the letter, and it is a relatively innocent document. What it contains is the following:

Alberta will not issue all necessary provincial permits under the Clean Air and Clean Water Acts until the Federal Government provides approvals under its environmental legislation, which was certainly within the prerogative and jurisdiction of the then minister of environment, the hon. Premier.

It also indicated as follows:

Alberta will require satisfactory completion of detailed financing and forest management arrangements including a commitment in principle for the bank credit facilities.

Mr. Speaker, with respect to most business arrangements, as was the case with Al-Pac, that was a condition which Treasury had imposed prior to the issuance of environmental permits.

It's interesting to note that during his comments the Leader of the Opposition indicated the Premier's name was on the document. That is accurate. However, it's not signed. Yet again that clearly left the impression with the viewing public that the Premier had signed this document and had endorsed what's in it. Quite frankly, even if he had signed it, there is nothing in here, again, which would indicate any wrongdoing or any impropriety on the part of the Premier with respect to the negotiation of this arrangement.

For that reason, Mr. Speaker, and because of the necessary implication which one would have by listening closely to the

words of the Leader of the Opposition, one has to feel that he has made a personal allegation against the Premier and that he has imputed false motives, and for that reason I feel there is a legitimate point of order.

THE SPEAKER: The hon. Opposition House Leader.

MR. SAPERS: Thank you, Mr. Speaker. Clearly there is no point of order. It's unlike the Government House Leader to rise on a frivolous point, so I guess this whole issue with the Alberta-Pacific project must be striking relatively close to home. There's a sensitivity amongst the government about this issue, and I can only derive that that's the reason the Government House Leader would raise such a point of order, although I do appreciate the fact that he's raised it and made his claim.

I took a look at the hon. Leader of the Opposition's notes, and I note that what he said in his question – Mr. Speaker, if you review the Blues, I think you'll see this yourself – is that the Premier's name is on the bottom of this letter. Of course it is, and the Government House Leader has acknowledged that. The significance of the line of questioning from the Leader of the Official Opposition to the Premier is that the Premier has said more than once that you won't find his name on any document relating to the government's involvement with Alberta-Pacific Forest Industries Inc. Of course what we have here is a letter dated October 31, 1990, from the Premier and the then minister of forestry, lands, and wildlife to Mr. Stuart Lang at Al-Pac stating the province of Alberta's commitment to be involved with the pulp and paper mill project, subject to some conditions.

Mr. Speaker, there was no attempt to discredit the Premier. In fact, his own words and his own actions may be discredited. But there was no attempt on the part of the Leader of the Opposition to make any personal attack. It was simply a matter of trying to get the Premier to confirm or deny that he signed this or some other document pursuant to the framework for funding and the involvement of the government of Alberta with Alberta-Pacific in the pulp and paper project. There clearly is no point of order. There is clearly a real thin-skinned sensitivity on the part of the government to this issue.

3:00

THE SPEAKER: Hon. members, a few minutes ago I ruled on another point of order that is, in my humble opinion, not dissimilar to the one that we've just heard, and I believe that my previous ruling will apply.

The hon. Opposition House Leader.

Point of Order

Reading from Documents

MR. SAPERS: Thanks, Mr. Speaker. Earlier today in question period there was an exchange between the hon. Member for Calgary-North West and the Minister of Energy, at which time the Minister of Energy stood in the Assembly and read extensively from a printed document. Now, I want to note a couple of things. Number one, the Minister of Energy has time and time again intervened during points of order in this House to talk about how he believes that they are a frivolous waste of time and how he does not countenance a waste of time in this Assembly.

Now, Mr. Speaker, first I want to refer you to page 365 of *Erskine May*. Under the title Reading Speeches it says: "A Member is not permitted to read his speech, but he may refresh his memory by reference to notes." Well, that was the longest pause that refreshes that this hon. member has ever seen.

Secondly, I would like to refer you to 495 in *Beauchesne*. It's very clear, Mr. Speaker.

A Minister is not at liberty to read or quote from a despatch or other state paper not before the House without being prepared to lay it on the Table.

Well, I'm assuming that the Minister of Energy had one of his minions in his department prepare that response that he read from, and if the minister wanted that to be in the public view and if the minister wanted that to be part of the public record, he simply could have said: great question, hon. member; I have a response and am prepared to table it. Instead of doing that, he clearly abused the rules of this Assembly by taking the time to rather tediously read the response.

Mr. Speaker, also *Beauchesne* 496. Under the title Quotations it says:

A Member may read extracts from documents, books or other printed publications as part of a speech provided that in so doing no rule is infringed. A speech should not, however, consist only of a single long quotation, or a series of quotations joined together with a few original sentences.

I'm not sure that there were even a few original sentences in the Minister of Energy's response.

I would hope that you would rule that this is a point of order and that all members of the Executive Council could be so cautioned about reading extensively from prepared speeches when they answer questions.

THE SPEAKER: The hon. Minister of Energy.

DR. WEST: Yes. I think he answered his own question in that he said that I may. I did, and I will again. Thank you.

THE SPEAKER: Frankly, I don't understand what just transpired there, other than the following. Hon. members, it's very, very clear in *Beauchesne* that this is a parliament. People come here as elected politicians, and they may follow certain traditions about how to get elected as a politician. Some will fight. Some will use charm. Some will work hard. But in here this is a parliament. It's a little higher level than simply being known as a politician. One of the traditions in a parliament, quite frankly, is there is no paper in the House.

Now, if the point of order that the hon. member wants to have implemented – the real test of a true parliamentarian is to be able to substantially deliver an argument on any question before him or her without the prompting and the required paper. The hon. Member for Edmonton-Glenora has basically said that we should have no paper in here. No one would be happier about this process, to really see the brilliance of intelligence come forward, than the Speaker would in this regard. Hon. members who would have an opportunity to participate through their 20-minute speeches would do it off the cuff in the form of the great parliamentarians of history. Winston Churchill was one of those, and there are others. There has been the odd person in this Assembly since 1971 that I've had an opportunity to actually observe who could do that, but it's very few. So I don't really think, hon. member, that you want me to follow the rules specifically and say: no paper in here.

On the other hand, I am really surprised, though, by the hon. Minister of Energy, whose mind I think is up there at the high level of an outstanding parliamentarian. Why he would need to quote and read from a piece of paper on three occasions in question period today surprises me. Of all the people in this Assembly who have a fine education and a promising mind, I'm

sure he would have been able to stand up and wax eloquent with this specific information about the knowledge of his department and would have responded quickly. The fact of the matter is that this point of order has now taken more time than the time that elapsed in the exchange between the hon. Member for Calgary-North West and the Minister of Energy, which was the longest length of time taken today in question period, some seven minutes.

So I'm going to take under advisement this question with respect to the point of order. Within the next six months I'm going to ask the three House leaders to actually address themselves to the question: should paper be permitted in this Assembly, or should the real rising of the cream, the brilliance of the parliamentarian, come to the fore? Do we need all this paper that seems to help everyone, give them that extra crutch? I mean, 24 hours in a day, seven days in a week, and 52 weeks in a year – and this is the business – we can come in here prepared. Do we need all of the paper that we see? If the answer is yes, then I will dutifully enforce at the next session of the Legislative Assembly of the province of Alberta a ban on any paper in this Assembly.

head: **Orders of the Day**

head: **Written Questions**

MRS. BLACK: Mr. Speaker, I move that written questions appearing on today's Order Paper stand and retain their places with the exception of written questions 17, 18, 19, and 25.

[Motion carried]

Parks and Recreation Areas

Q17. Mr. White moved on behalf of Ms Carlson that the following question be accepted:

How many facility operating agreements for provincial parks and recreation areas were offered for tender between September 1, 1996, and February 3, 1998, where the operator takes over full responsibility for the operation, how many tenders have been accepted, what is the name of each location for which no suitable tenders were received, if any, and what are the future management plans for each site for which no suitable tenders were received?

MR. LUND: Mr. Speaker, we're prepared to accept this motion, but we find it necessary to amend it because there are a number of things said in the original that really are not accurate. I believe that the amendments will really get at the information that the hon. member was talking about.

The facility operating agreements where the operator takes over full responsibility of the operation only pertain to the recreation facility sites under the department's Completing the Puzzle program. Provincial parks and recreation areas tender calls, as per this management strategy, were not offered until September of 1997. To date a number of tenders have been received for these recreation facility sites, and negotiations are under way to select an operator.

[The Deputy Speaker in the chair]

So, Mr. Speaker, if we could go through the amendments. In the first part we need to strike out "facility operating agreements for provincial parks and recreation areas" and substitute "recreation facility sites." Then we have to strike out "September 1,

1996" and substitute "September 1, 1997." Then we need to strike out "how many tenders have been accepted" and substitute "on how many recreation facility sites were tenders received" and then strike out "are the future management plans for each site" and substitute "action is proposed or has been initiated for each recreation facility site."

So the question would now read:

How many recreation facility sites were offered for tender between September 1, 1997, and February 3, 1998, where the operator takes over full responsibility for the operation, on how many recreation facility sites were tenders received, what is the name of each location for which no suitable tenders were received, if any, and what action is proposed or has been initiated for each recreation facility site for which no suitable tenders were received?

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Calder on behalf of Edmonton-Ellerslie.

3:10

MR. WHITE: Thank you, Mr. Speaker. Yes, this side will accept the amendments. But in speaking to them, the difficulty with accepting them is that it cuts out the previous year's activity in this particular area. It's notable that the "facility operating agreements" were changed to "recreation facility sites," so there was a change in naming of the sites at that point. It made it difficult, nigh impossible, to modify the question without going to great length.

So we'll accept the information and hope that the information the minister can provide, even though it's not in the question, can apply for the previous year with the other names.

Thank you, Mr. Speaker.

[Motion as amended carried]

Recreation Areas

Q18. Mr. White moved on behalf of Ms Carlson that the following question be accepted:

How many provincial recreation areas and provincial forest recreation areas were there as of January 1, 1994, and between January 1, 1994, and December 31, 1997, how many closed, how many were transferred to municipalities, how many were transferred to other bodies that keep them open to the public, how many were transferred to other bodies for private use, how many were still managed by the government on December 31, 1997, and how many may be closed during 1998 if no operators are found?

MR. LUND: Mr. Speaker, once again, we find it necessary to amend in order to clarify what we think the hon. member is really wanting to find out. We need to provide more meaningful words and strike out "transferred," "bodies," "managed by," and "private use."

The amendments that I am moving would be to strike out "transferred to municipalities" and substitute "divested to municipalities," strike out "transferred to other bodies that keep them open to the public" and substitute "contracted or leased to private-sector contractors, municipalities, and community or other nonprofit groups that keep them open to the public," then strike out "transferred to other bodies for private use" and substitute "community or other nonprofit groups for exclusive use," and then strike out "managed by" and substitute "operated directly by."

So the question then would read:

How many provincial recreation areas and provincial forest recreation areas were there as of January 1, 1994, and between January 1, 1994, and December 31, 1997, how many closed, how many were divested to municipalities, how many were contracted or leased to private-sector contractors, municipalities, and community or other nonprofit groups that keep them open to the public, how many were leased to community or other nonprofit groups for exclusive use, how many were still operated directly by the government on December 31, 1997, and how many may be closed during 1998 if no operators are found?

MR. WHITE: Mr. Speaker, again, on behalf of Ms Carlson the amendments are in order and will be accepted. So as to prevent up and down again, I'll speak to them at the moment. The amendments do in fact clarify some of the wording of the question and, in fact, should reach the same conclusion. We would have liked to have been able to ask for all the names and locations, but that gets into a great deal of information required, and we wouldn't want to put the ministry through that.

In fact, we'd much rather have them keep some of these picnic areas and tourist areas open for the use of citizens and tourists alike in this province. There are very, very, very few of these natural areas in some cases and in most cases very, very beautiful areas that have been set aside by our forefathers for the enjoyment of all of the population. Hopefully, they will all be maintained in the public domain or, at least, if not in the public domain, accessible to the public through the private operators.

Thank you, sir.

[Motion as amended carried]

Deputy Minister Selection Panel

Q19. Dr. Massey moved that the following question be accepted: What are the names of the nongovernment selection panel members who recommended the former Deputy Minister of Education, Leroy Sloan, for that position and the amounts of remuneration and the expenses paid to each panel member for his or her services in the screening and selection process?

MR. MAR: Mr. Speaker, the government accepts Written Question 19.

[Motion carried]

Agriculture Financial Services Corporation Share Holdings

Q25. Mrs. Soetaert moved that the following question be accepted:

What is the breakdown of the \$4,421,666 in unlisted preferred shares, by individual entity, held by the Agriculture Financial Services Corporation as of March 31, 1996, as contained in the public accounts 1996-97, volume 3, note 10, page 12?

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

MR. STELMACH: Thank you, Mr. Speaker. I'm pleased to say that the government accepts Written Question 25. In fact, I'm prepared to table six copies of my response this afternoon.

[Motion carried]

head: **Motions for Returns**

MRS. BLACK: Mr. Speaker, I move that motions for returns appearing on today's Order Paper stand and retain their places with the exception of motions for returns 15, 16, 21, 22, and 23.

[Motion carried]

Minimum Wage

M15. Ms Barrett moved that an order of the Assembly do issue for a return showing copies of all studies done by the government on the direct and indirect effects on Alberta's workers and the provincial economy as a result of having the lowest minimum wage in Canada.

MR. SMITH: Well, Mr. Speaker, the government is pleased to accept the question with the proviso to the member making the comment "as a result of having the lowest minimum wage" - it is the lowest minimum wage before tax. After tax, because the Alberta government does not collect any provincial tax on those who earn the minimum wage, the accurate phrase is: a minimum wage that is the fifth or sixth highest in Canada. So I would say that if the member would be kind enough to put "having the lowest dollar minimum wage in Canada," we would accept it.

MS BARRETT: Yeah.

[Motion as amended carried]

3:20 Children's Services Regionalization

M16. Ms Barrett moved that an order of the Assembly do issue for a return showing copies of all studies or analyses done by the government showing the effect the regionalization of children's services will have on children living in poverty in Alberta.

MRS. BLACK: Mr. Speaker, on behalf of the minister responsible for children's services, I'm pleased to accept this motion for the government and to file with the Assembly today six copies of the response to Motion 16.

[Motion carried]

Laidlaw Environmental Services (Ryley) Ltd.

M21. Mr. White moved on behalf of Ms Carlson that an order of the Assembly do issue for a return showing a copy of all documents that record inspections by Alberta Environmental Protection of the construction of cell 2 at the Laidlaw Environmental Services (Ryley) Ltd. hazardous waste landfill from the start of construction until its completion in June 1997, including quality control/quality assessment of material used in the clay liner and compaction of the clay, and all departmental evaluation of inspections, assessments, and records.

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

MR. LUND: Thank you, Mr. Speaker. Once again we find it necessary to amend this motion before we accept it. That's in light of the Environmental Appeal Board's report and the director

of chemicals assessment and management's decision report concerning the design of cell 2. Departmental inspections have continued past June of 1997. These inspections all relate to cell 2, with the latest inspection having been conducted as late as February of 1998. These inspections should be included as part of the package that we will be giving to the hon. member. The quality control and the quality assessment reports on liners are prepared by an independent consultant. Those reports for the cell 2 liner system were prepared by EBA Engineering Consultants, and those would be available upon request from that firm.

The amendments that we would move would be to strike out "the construction of" and substitute "the construction and operation of" and then striking out "its completion in June 1997" and substituting "February 1998" and by striking out "including quality control/quality assessment of material used in the clay liner and compaction of the clay and all departmental evaluation of inspections, assessments, and records".

So the motion would now read:

... a copy of all documents that record inspections by Alberta Environmental Protection of the construction and operation of cell 2 at the Laidlaw Environmental Services (Ryley) Ltd. hazardous waste landfill from the start of construction until February 1998.

MR. WHITE: Mr. Speaker, I would dearly like to be able to say that on behalf of Ms Carlson I could accept all of these amendments. Unfortunately, you see, it's a little technical; part of the difficulty here in cell 2 was the design and the inspection of the design by the department as it was being constructed. Yes, it's true that there were other inspections subsequent to that by those that would review the operation, but we're not overly concerned about the operation because we have access to records as to what went into the landfill. It's the construction of the landfill that we're concerned about.

Then by striking out "including quality control/quality assessment of material used in the clay liner and compaction of the clay" - those are all documents that are very, very, specific to construction. The hon. minister wishes to strike those out and therefore leave out those valued documents.

You see, there's been a great deal of concern in the public about this particular landfill and the design of the landfill. It is generally assumed that when the design was put forward, that design was accepted by the department, that it was inspected by the department to ensure that that which was designed was actually put in place so as to minimize the potential ecological damage. To do so, you have to inspect that site. Well, that's what we're directed to do: inspect the site during construction and construction alone.

So it's very, very difficult to accept the amendment here for fear that they may be clouded with the inspections related to the operation as opposed to the construction. We have some reluctance to accept this amendment and therefore wish the amendment to be so defeated, sir.

[Motion on amendment carried]

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

MR. WHITE: Mr. Speaker, it saddens me that this minister would not allow the question as it stands, would not provide that information so that the general public, particularly the part of the general public that is most concerned about this particular site, be allowed to have this information published, as we'd like it.

However, that does not mean to say that he doesn't have the opportunity to publish the information or to send the information or to file the information with this Assembly that will satisfy our concerns. But the motion as it stands simply does not guarantee that. So we'd like to let that stand on the record.

Thank you, sir.

[Motion as amended carried]

Information Systems Management Corporation

M22. Mrs. Soetaert moved that an order of the Assembly do issue for a return showing a copy of the agreement between Alberta Environmental Protection and Information Systems Management Corporation, ISM, for ISM to manage the sale of Alberta recreational fishing and hunting licences, as announced in a government news release on September 4, 1997.

MR. LUND: Mr. Speaker, we will be in a position to accept this with some amendments. Unfortunately, we find it necessary to amend it because there could be some information that is being asked for in the motion as it currently stands that would be prohibited under the Freedom of Information and Protection of Privacy Act. In order to address that issue, we have to make sure that it reads properly.

The amendments that I will move would be to add "those portions of" after "a copy of" and to add "that are not protected under the Freedom of Information and Protection of Privacy Act" after "licences." So the motion would now read:

a copy of those portions of the agreement between Alberta Environmental Protection and Information Systems Management Corporation, ISM, for ISM to manage the sale of Alberta recreational fishing and hunting licences that are not protected under the Freedom of Information and Protection of Privacy Act, as announced in a government news release on September 4, 1997.

3:30

MR. DICKSON: Mr. Speaker, I thought this was such a precedent-setting afternoon when we saw the widespread disclosure by a variety of ministers. I thought it might be too good to last.

Mr. Speaker, I'd make this observation. I always appreciate when a minister comes forward and offers an amendment saying, "We can't give you the whole thing, but rather than saying no, we're going to try and work to provide what we feel we can." There are two difficulties I see. I know this minister is an expert in freedom of information because he chaired the panel back in 1992 that led to the bill. Firstly, he said, "that are not protected under the Freedom of Information and Protection of Privacy Act." Well, that statute has about 90 different sections. Of the 13 or 14 different exceptions a number of them are discretionary, which means that it's up to the head of a public body to disclose or not to disclose. So this is not a statute that simply goes through as sort of an inert closed gate that says: you can't get this, this, and this.

If the minister looked specifically at section 15 - and he hasn't shared with us what section he thinks may apply - section 15(3) says: "if the third party consents to the disclosure." There are some other circumstances under which that information ought to be available under the freedom of information act. So it's actually very confusing for the minister to come forward and say: we'll share with you this information that's not protected under the act. How would you treat information? I'm assuming section 15 is the

exception that the minister is alluding to, because that relates to third-party commercial interests. That would probably be the most appropriate one. But we don't know if the minister has done what he'd have to do under the FOIP Act, which is actually to solicit from the third party consent to disclosure or no consent. We don't know that.

The other thing that I find a bit puzzling is that in the amendment it says, "as announced in a government" – not the government – "in a government news release on September 4, 1997." I have no idea what news release the minister is referring to, and he didn't share that with us when he spoke earlier. There was a news release about that time that related to certain . . .

MR. LUND: That's what your person wrote.

MR. DICKSON: In any event, I think that the provision in terms of the news release the minister has quite fairly pointed out, and I'll suggest this is sloppy wording, Mr. Minister. This may have come from my caucus, and I'm prepared to accept that it should have referred to a specific news release.

I have to tell you that the Freedom of Information and Protection of Privacy Act provisions – this is ambiguous, and it's not very helpful. If the minister would indicate specifically the section in the act, and if it's section 15 he's trying to invoke or seeks to invoke, whether section 15(3) has been complied with. Alternatively, the other section might be, I suppose, section 23, advice from officials. That's a mandatory exception, not discretionary, but there are some tests that have to be met there. Frankly, we can't evaluate that fairly, Mr. Speaker, without having the additional information.

So I certainly withdraw any criticism of the vague reference to a news release, because that was authored in my own caucus office. I withdraw that, but it still leaves the very substantive issue that I know all of my colleagues would share this concern about. That is: what part of the FOIP Act, what elements, is the mandatory exception, the discretionary exception? If it's a discretionary exception, we go around in a circle then, because the minister says, "I won't release something if it's protected under the act," and then the minister puts on his hat as head of the public body and says, "This is discretionary; I ought to exercise my discretion to refuse disclosure."

The last observation I'd make, Mr. Speaker, is this: when it says information "protected under the act," the only protection in the act is for the benefit of Alberta taxpayers. This isn't an act about protecting anything other than ultimately protecting taxpayers. I think that's why it's important that the information be disclosed, and we'd need some further clarification from the minister before we'd be able to accept what, I submit, is a very vague amendment.

Thanks very much, Mr. Speaker.

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

MRS. SOETAERT: Thank you very much, Mr. Speaker. I share the hon. Member for Calgary-*Buffalo's* disappointment. Things had been quite open and accountable in this Assembly for about half an hour; however, we've slipped back into the hiding mode.

To the hon. minister, through you of course: my concern with this amendment is that we're only going to show portions of the agreement. Now, if this applies to taxpayers – and I would bet that hunters and anglers are taxpayers – they have every right to

know this information. I'd like to know how much has been excluded by saying "portions of." The public is paying for this agreement with ISM. I don't know why the minister isn't agreeable to showing the full contract. The Alberta Conservation Association will be losing money because of this deal, and I would think that by amending this motion, it gives the minister an opportunity to duck and dive and not give all the information that I think all taxpayers have the right to know. So I'm disappointed with this amended motion.

[Motion as amended carried]

Information Systems Management Corporation

M23. Mrs. Soetaert moved that an order of the Assembly do issue for a return showing copies of all proposals received by Alberta Environmental Protection for the privatization of the sale of Alberta recreational fishing and hunting licences, including the proposal from Information Systems Management Corporation, with whom the department has entered into an agreement.

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

MRS. SOETAERT: Thank you very much, Mr. Speaker. I'm with great hopes. I'm going to try again. Motion 23 says, "copies of all proposals" – all proposals, because I'm sure there are many.

MR. LUND: Mr. Speaker, we will gladly accept this motion with some amendments. I can already hear what Calgary-*Buffalo* might have to say about my amendments.

It's very interesting, because he was on the committee, and he heard people warn us in fact that with passing the protection of privacy act, there were going to be things that you would normally release that you're going to have trouble releasing. One of the reasons that I am very gun-shy is because we released some information which has got us in big trouble because it was covered under the protection of privacy and we did not realize it. So if there's any question, we always now refer it to the commissioner.

That's the reason that we find it once again necessary to amend this motion, so that in fact we don't get ourselves in trouble. If the hon. members want to think that we're hiding something, they can easily go to the commissioner and ask for this information. They can put in a FOIP request, and the commissioner will decide whether in fact the information is private and whether we can release it.

Having said all of that, I'm going to move amendments that would be striking out "copies of all proposals" and substituting "a copy of those portions of the proposal"; by striking out "including the proposal"; and by adding "that are not protected under the Freedom of Information and Protection of Privacy Act" after "agreement." Now, Mr. Speaker, it seems to me that this is very logical. Anything that is legal to release, we will release it. I just for the life of me don't understand where the opposition are coming from when they say that we should release all of this stuff, whether it's legal or not. We could be breaking the law. We are not going to step into that trap and start breaking the law.

So the motion will read:

a copy of those portions of the proposal received by Alberta Environmental Protection for the privatization of the sale of

Alberta recreational fishing and hunting licences from Information Systems Management Corporation, with whom the department has entered into an agreement, that are not protected under the Freedom of Information and Protection of Privacy Act.

3:40

MR. DICKSON: Mr. Speaker, I'd preface my comments by apologizing to members for not being sufficiently clear when I raised the concern before. I am absolutely delighted whenever I see a minister of the Crown come forward and champion the importance of the statute and compliance with the statute, and I wouldn't for a moment suggest that the minister would offend the statute.

Now, having said that, he's ignoring section 3(a) of the act, that says that this act does not replace existing processes and existing procedures for accessing information. That's the first point I want to make.

The second point I want to make is this: this is the first time, frankly, that I can recall a minister coming forward and citing the act as a reason not to disclose. That's not a negative thing, and I hope that we see the specific reason more often. What I'm asking the minister to do is: the next time he or any of his colleagues come forward and want to cite the act, will they cite the specific exception they're relying on? The reason I say that is, once again, that with some of the exceptions it's up to a minister to decide; it's a discretion. The minister can decide to release or decide not to release. If the minister simply tells us, "I'm not releasing because it offends section 15(1) and it's a third-party trade interest," I'm not going to quibble over that because he's identified the section and we know what the authority is.

I'd ask the minister and, through him, his colleagues, when we do this every Wednesday afternoon, if this is going to be the reason cited, to cite the reason, identify the specific section of the act. If it's a discretionary exception – 15 isn't, but some, like 21, would be – then there's the question of why the minister wouldn't release the information. That's the point I wanted to make. This is quite independent of this one. It would be very helpful, Mr. Minister of Environmental Protection, to be able to identify the specific section. Hopefully it's not an unreasonable request.

Thanks very much, Mr. Speaker.

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

MRS. SOETAERT: Thank you, Mr. Speaker. I have some concern about this amending suggestion here by the minister, and I want to make it very specific what my concerns are. It says here: "a copy of those portions of the proposal received by Alberta Environmental Protection." I asked for "all proposals." The minister has indicated in question period that there were several people that suggested proposals for this. This would lead me to believe that there was only one proposal tendered. Are we getting the best deal for our dollar, or is there a special deal going on with ISM for a reason? That's my question to the minister. That's what I wanted to know: if we are getting the best bang for the buck here.

Unless the minister is afraid to show something – maybe other companies who bid a much lower price can do it much more efficiently. The minister feels tied to ISM for some reason. I asked for "all proposals," and I'm very disappointed that he is only letting a portion of one proposal and the others aren't even mentioned. If the minister can allude in question period that there were many proposals, I would venture to say he shouldn't be

afraid to table them, to share them with us. I'm sure I'm wrong, but this would lead people to believe that there is a reason one was chosen over the other, for reasons unknown. If it's the best deal, if it's the most efficient system, fine. Prove it. Show it. If there are other better systems that the minister shelved because of reasons unknown in here – certainly one could surmise different things, but I would never do that – the question does hang in the air there.

So I'm very disappointed that you can't show all the proposals. You alluded to them in question period, yet today you're not showing all those proposals. I'm very disappointed with this amended motion, Mr. Speaker.

[Motion as amended carried]

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

Bill 207

Whistleblower Protection Act

[Debate adjourned March 3: Mr. MacDonald speaking]

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

MR. MacDONALD: Thank you, Mr. Speaker. After listening to the debate on the motions for returns this afternoon, in particular the remarks by the hon. Minister of Environmental Protection and the exchange between the Minister of Environmental Protection and the hon. Member for Calgary-*Buffalo*, I would say that Bill 207, Whistleblower Protection Act, is needed now more than ever.

Bill 207, Mr. Speaker, would be a comfort to a number of provincial child care workers who were suspended by the social services department for publicly criticizing plans to revamp child welfare. Bill 207 provides a process for those workers to address their concerns without fear of job loss or reprisal.

Two very successful whistle-blower protection programs already exist in this province. They are, of course, Crime Stoppers and Report a Poacher. These are necessary initiatives to help the police and wildlife officers carry out their duties. All police departments across this province have saved time and money solving crimes by relying on valuable tips received from members of the general public. The illegal international trade in black bear parts and velvet from elk antlers has been curtailed with the help of Report a Poacher. This is a program that is in the Department of Environmental Protection.

The idea of whistle-blowing, Mr. Speaker, is not an unfamiliar, foreign concept for many of the members across the way. I am confident that many government members will support this legislation.

On March 23, 1992, the hon. Member for Red Deer-North introduced a private member's bill, at that time Bill 218, called Vulnerable Persons' Protection Act. The purpose of this bill was to provide clear protection from any type of retaliation to every person who reports in good faith and without malicious intent the abuse or neglect of a vulnerable person receiving care or services from an agency or organization in the province of Alberta.

I wonder if the now Provincial Treasurer would want to be part of the government decision which leaves those who do their civic duty subject to harassment, intimidation, and possible reprisal without whistle-blower protection. These provincial employees

need not only the hon. Member for Red Deer-North but others as well to stand up and say yes to whistle-blower protection.

[Mrs. Gordon in the chair]

I have heard countless times in this Assembly that we must put all our efforts towards the best interests of the citizens that we serve. Openness, increased efficiency, accountability, and streamlining of government are all targets we agree government should strive towards. These are the basic principles, Mr. Speaker, of Bill 207. However, we must not overlook the importance of encouraging free speech. The best source of information about what a company or government department is actually doing or not doing is from its employees.

Now, I know that when the hon. Member for Calgary-Buffalo first brought this legislation before the House, members from across the way stood up and said yes, and they supported it. I encourage you, all government members, to have a look at this legislation and to say yes in great numbers to this. We will pass this legislation, and we will have a better province for it and we will have a better civil service for it.

Thank you, Madam Speaker.

3:50

THE ACTING SPEAKER: The hon. Minister of Justice.

MR. HAVELOCK: Yes. Thank you, Madam Speaker. I appreciate this opportunity to participate in the debate of the Whistleblower Protection Act, Bill 207. At the outset, I would like to emphasize that I support the concept of whistle-blower protection, though not in the format of this proposed legislation. That seemingly contradictory statement is because the bill raises a number of concerns, the most fundamental being that it creates a shift in the roles played by the Legislative Assembly, the administration, and unelected officials such as the Ombudsman and the Labour Relations Board. Essentially, such shift will take authority from elected representatives and the administration and vest it in appointed officials. It will be for the Ombudsman, for example, to determine if there is serious wrongdoing. It will be for the Labour Relations Board to determine whether adverse employment action has been taken against an employee and, if so, to determine compensation or whether charges should be laid. In addition to the foregoing and potentially at the behest of one employee, the bill provides for a convoluted process of reports by the heads of the alleged offending departments that would add greatly to administrative pressures, all of which is based on the notion of serious wrongdoing.

Madam Speaker, serious wrongdoing is defined but in terms that make it extremely subjective. For example, an employee is able to start the process with his or her vision of what is contravening a statute or regulation, of what is gross mismanagement or gross waste of public money, of what is an abuse of authority, or what is causing a grave health or safety hazard or grave environmental hazard. So long as this is done in good faith, the employee has available the benefits of the protection from adverse employment action assured under the bill.

The use of long descriptive phrases also promotes uncertainty in the application of legislative wording. This uncertainty will likely lead to a broad application of the wording. For example, there is no precise definition of what is gross or what is grave. Indeed, courts for years have struggled with these terms. In the end, if the bill is accepted, it will, for example, be for the Ombudsman to make that determination.

Leaving aside the issue of interpretation for the moment, the inclusion of such provisions suggest there are some deficiencies in the present system which require rectifying. This is notwithstanding that procedures already exist for reporting a contravention of a statute, particularly if the contravention is an offence, that the Assembly has procedures for policing the management of departments and expenditures through its various committees and the Assembly itself, and that there is substantial statutory and legal precedent in place dealing with abuse of authority.

Madam Speaker, a portion of the definition of "causing or allowing a grave health or safety hazard or a grave environmental hazard" is a curious one. In legislative interpretation each word or phrase must be interpreted as having its own distinct meaning. As such, this reference cannot mean situations where there is a contravention of a statute or regulation, because those situations are dealt with at the beginning of the definition. If that is so, then the potential exists for the Ombudsman to determine when the government should do something about what he or she concludes to be matters of a grave nature. It in effect empowers the Ombudsman to dictate what governments should do, not the Assembly.

Indeed, section 2 underscores that observation by allowing the Ombudsman to advise employees concerning

- (a) what constitutes serious government wrongdoing that ought to, in the public interest, be disclosed, [and]
- (b) whether particular information may reveal serious government wrongdoing that ought to, in the public interest, be disclosed.

The concept of good faith is also incapable of precise definition. It again allows for broad leeway for the Ombudsman and the Labour Relations Board to find good faith and hence proceed with any claim made and provide compensation if adverse employment action is taken.

The use of the Labour Relations Board is also unusual. It presumably has jurisdiction under this bill over all employees, both union and opted out, who make disclosure to the Ombudsman and where it is alleged adverse employment action is taken. This would be novel, Madam Speaker, as to date the board's primary jurisdiction has been limited to unionized employees. Moreover, the bill also allows the board to provide in a summary fashion compensation without any regard to due process in some cases and then to have such decision registered as an order of the Court of Queen's Bench. The first objection is that processes already exist for compensation of this nature in the courts. Secondly, before this process is adopted, a careful constitutional analysis is required to ensure that the jurisdiction delegated to the board does not offend that otherwise granted to the Court of Queen's Bench of this province.

In addition to the aforementioned difficulties associated with the shifting of roles, potential problems arise in practice, one of the most troubling of which is the conflict between the public interest in the disclosure of wrongdoing and the protection of confidential and private information. From the perspective of the Justice department this conflict creates a number of concerns. Breaches of confidentiality in the conduct of criminal cases have the potential to impede investigations and prosecutions and violate the legitimate privacy and personal safety interests of complainants, victims, witnesses, informants, counsel and accused persons, and others.

The proposed legislation attempts to deal with this problem in a number of ways. First, there is an exception for a lawyer receiving privileged information. Second, before releasing an inquiry report to the public, the Ombudsman must consider a

number of factors, including whether publication of the report "would unfairly damage the reputation of a person or an institution" and "whether the disclosure could be reasonably be expected to endanger the life or physical safety of any person" and "whether the disclosure could reasonably be expected to prejudice or interfere with an investigation by a law enforcement agency."

These may not, however, provide sufficient protection. It is not only those employed as lawyers who deal with privileged information in the department. Furthermore, in all divisions of the department there may be information which is not privileged but which should be treated confidentially. For example, secret investigative techniques should not ordinarily be disclosed.

The bill presents other difficulties from a Justice perspective. In terms of the Labour Relations Board, section 14(2) requires the consent of the board before a charge may be laid for taking adverse employment action against a whistle-blower. As you know, Madam Speaker, the Minister of Justice and Attorney General is ultimately responsible for the conduct of criminal and quasi-criminal prosecutions, and there is some question as to whether the minister or prosecutors acting under the minister's authority should require the consent of the Labour Relations Board to commence a prosecution. Further, the minister acting through Crown prosecutors ordinarily has the authority to stay quasi-criminal proceedings.

To conclude, Madam Speaker, the bill results in numerous fundamental shifts in the present alignment among the Assembly, the administration, and nonelected officials through the vesting of substantial authority in nonelected officials. It also raises some significant practical issues relating to the mandate of the Justice department, particularly in the realm of criminal cases. As a consequence, I encourage all members of the Assembly to vote against this bill in second reading.

Thank you.

THE ACTING SPEAKER: The leader of the ND opposition.

MS BARRETT: Thank you, Madam Speaker. I was pleased to hear that the Justice minister is in principle in support of whistle-blower protection. I'm surprised, however, that he didn't encourage the members of the Assembly to adopt this bill at its second reading, which is the reading where we adopt in principle, and then offer the amendments he's got in mind that would make this legislation conform to the legal problems he addressed.

I will not disclose with which departments, but I have personally had experiences with departments and so-called arm's-length organizations of this government wherein wrongdoing has occurred or is maybe even commonplace and where the employees felt, thank goodness, that they could trust me to protect their identity and where they would come to me and tell me of the problems they were seeing at their place of work. However, they would certainly have preferred to have the protected option of seeking out an analysis and a judgment by the Ombudsman, a party they believe and have good reason to believe is neutral, politically neutral and neutral with respect to any subject matter which may appear before him, I can say safely, because we haven't had any women Ombudsmen. But, Madam Speaker, one never knows. You're the first deputy chairman we've had that's a woman, so we'll get to that eventually I'm sure.

4:00

The other thing about the Whistleblower Protection Act is that I believe valuable information may come to light. The government is always talking – in fact, we've got one minister who likes

to brag about how when he was Municipal Affairs minister, he lost more than \$2 billion in the hasty sale of public assets. They also like to talk about how they want to be efficient. Well, much of the information that can be obtained by people who work in the public sector may indeed cause new efficiencies to occur. I don't understand why the bill wouldn't have the government's support in that regard.

I would conclude by saying that this is a modern democracy. What do we have to be afraid of? The answer should be nothing. The government keeps saying: well, you know, we're going to do this transparently and that transparently. That should be the overriding policy of the government, Madam Speaker.

In conclusion, I cannot help but observe the similarities between Bill 207 and the bills that were introduced by John McInnis and Tom Sigurdson, former MLAs in this Legislature, in 1989, 1990, 1991, 1992, and 1993. Not just for that reason does this bill have my support, but I can't help but notice the wonderful similarities between those individual private members' bills.

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

MR. DICKSON: Thank you very much, Madam Speaker. I firstly wanted to acknowledge the hard work done by my colleague in sponsoring Bill 207. He's had the advantage, I think, of speaking to a lot of Alberta groups that have expressed interest in it in terms of trying to respond to their needs.

We often talk in this Legislature about bills and what kind of mischief exists that the bill is intended to remedy. That's often the standard or a basic question that we ask for every piece of legislation. So I might start by simply posing the question: what mischief does Bill 207 attempt to address?

The most basic one I think – all of us have had experience, certainly in this Assembly. We've seen large government departments, and we also know about large corporations in our communities and in this province. I think we come to understand – and all of us have had this experience to a greater or lesser extent – that large organizations sometimes don't always function perfectly. Sometimes you have managers that act dishonestly. Sometimes you have gross errors in judgment. I don't mean this in a partisan way. I'd say the same thing of the federal Liberal government. I'd say this of any provincial government. It's been the experience in American jurisdictions that where whistle-blower has sometimes been most exciting and most positive has been in the private sector. There's a number of U.S. jurisdictions where they've found, in fact, that whistle-blower protection saves money. You identify, if you have somebody producing atomic energy fuel, where the safety risks are enormous. Whistle-blower protection has played a hugely important role in keeping people safe, but what it also does is it keeps government on its toes.

Now, there may be some in this Assembly who think this government doesn't need that sort of oversight. But, you know, why do we have an Auditor General? Why do we have an Ombudsman? We have those offices because we understand that the parliamentary system isn't perfect. Particularly when you get large, lopsided Assemblies with a very powerful government majority like we have here, it makes all the more important the need for these kinds of safeguards.

The Minister of Justice spoke against the bill, and it's interesting to me, Madam Speaker. I contrast the enthusiasm with which this same member rolled into the Assembly on June 15, 1993. He was then a man, as my old colleague from Fort McMurray used to say, learned in the law.

MR. HIERATH: Well, that was the problem.

MR. DICKSON: It may have been the problem, but following the Peter Principle he's now the Minister of Justice, Madam Speaker.

You know, it seems to me, Madam Speaker, that what we've got is this: the Minister of Justice came into this House, he saw a bill like whistle-blower protection, and he supported it then. What a difference a little time in cabinet makes and 200 lawyers in the civil section in the Department of Justice make to this minister's perspective.

MR. HIERATH: That's a lawyer, Gary.

MR. DICKSON: I've never been under any illusions about the high esteem that members of my profession are held in in this Assembly, Madam Speaker. It's affirmed day after day. I tried to warn my friend from Calgary-Lougheed, but she insisted that this was still a great place to work, and it is.

The point I was simply trying to make is that this is a bill that in the past has received support, that has crossed the floor, that has had support from members on the government side and the opposition side. I think this in some respects was perhaps one of the first genuine tests of free voting.

The Minister of Justice complained about what we were doing with the new responsibility for the Ombudsman and the Labour Relations Board. I thought the minister would appreciate the fact that instead of creating a whole new bureaucracy, what we tried to do was work within existing offices. We thought it was cost-efficient. We thought these were offices that had earned the respect of Albertans. They have budgets. They have secretariats. They have apparatus already in place. It made sense. If this Minister of Justice prefaced his comments by saying he supported the principle of whistle-blower, what possible model would be more prudent, fiscally responsible, more efficient than simply tailoring offices that already exist in this province? That's the reason it was designed in the fashion that is set out in Bill 207.

To me I think that if the minister has got specific questions and concerns about conflict between the role of the Ombudsman and the Department of Justice, those are easy things to remedy. Some of those 200 lawyers on the civil side of the Department of Justice could spend less time writing the minister's speeches in the House and more time drafting amendments to in fact achieve what the minister said he wanted to, which was to have whistle-blower protection.

You know, this isn't a very radical concept. The leader of the third party in the House said that it had been introduced during her time, prior to 1993. Well, I remember looking at those bills. It was a good first effort, but there wasn't very much detail. There was no apparatus in those bills. We've tried to take the concept and in fact put it in a working model.

It was the former Minister of Justice, Brian Evans, the MLA for Banff-Cochrane, who headed up, under the then Environmental Protection minister and now the existing Premier, and made recommendations that in terms of our environmental protection act we needed whistle-blower protection. It was this current government that brought in our Freedom of Information and Protection of Privacy Act, and they have a limited form of whistle-blower protection. The Ombudsman of the province has asked for whistle-blower protection. There is clearly a need, and there's clearly a demand, so really the debate ought to be over how we configure the office.

I take the comments of the Minister of Justice as constructive

suggestion. He questions whether there's too much subjectivity in the definition of serious government wrongdoing, and that's fair comment. I'm prepared to work with any member in this House – and I know the sponsor of the bill would be – to come up with an alternate definition of serious government wrongdoing that is narrower, that's tighter. I mean, that's not a difficult thing to do.

Reasonable men and women in this Assembly believe that governments aren't perfect and that we would be advantaged by having a whistle-blower protection provision. There's ample opportunity at the committee stage to be able to work on those kinds of initiatives. I think all of us in our constituency offices get calls from health care workers, from people who are concerned. I'd challenge any member in this Assembly to tell me that he hasn't received a call from a constituent or a health care worker that's seen things wrong in our health care system.

4:10

Well, why should people be intimidated from raising legitimate concerns they see because they're frightened that their job may be at risk, that they may be subject to some disciplinary action? All this bill would do would be to allow somebody in good faith to come forward and raise a concern discreetly, have it investigated by the office of the Ombudsman. I expected we might come under criticism from people who say this is a milquetoast version of whistle-blower: this is too muted; this is too modest; it's not ambitious enough. To me that would be perhaps a fairer criticism than anything we've heard so far.

I think really what we're dealing with on this is we're determining if we support the principle of whistle-blower. The Minister of Justice said he supports the principle of whistle-blower protection. The Ombudsman of the province supports the principle of whistle-blower protection. There were at least four other Conservative MLAs that I specifically recall who are still in this Assembly that found there was a value in whistle-blower protection. I'd ask those members to consider that we still don't have it. We still have an initiative here in this House that I think warrants the support of all members.

I just say again that we know there are problems in our health care system. We know there are problems with our complaint mechanism. People are aggrieved because they can't access health care when they need it. I'm not trying to focus specifically on what's going on in Alberta right now or any disagreement I may have with the Minister of Health. I expect that as an intelligent parliamentarian the Minister of Health would be one of the champions of this bill, because he understands that creating a culture of openness allows employees to be able to come forward.

To those who say this is going to tie up the Ombudsman office, my simple reaction to that is: why would we think there is so much illegal activity going on in government departments? Why would we think there's so much gross negligence going on in government departments that the Ombudsman would be swamped with complaints and issues? I think it wouldn't happen very often. All we want to do is simply provide the vehicle in those cases where it's required and where it's appropriate.

Much else could be said. I know there's been some suggestion in terms of how this fits with the whistle-blower protection that exists in the freedom of information act, and I think the point just to make there is that the Information Commissioner's office supports the notion of whistle-blower protection. They have some issues in terms of how it fits with section 77 of the freedom of information act, but I think there's a recognition that the protection is required. I think this is a modest step to be able to achieve that. I look forward to not only getting the support of many

members in this House to get it to the amendment stage but being able to work with the sponsor of the bill and other members to ensure that we have a model piece of legislation here. We have the opportunity to do that, and there is no better way of ensuring we have accountable government in this province. It's a perfect companion to freedom of information legislation, and I hope all members of the Assembly appreciate that challenge and are anxious to seize it.

Thanks very much, Madam Speaker.

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

MR. STEVENS: Thanks, Madam Speaker. I'm pleased to rise this afternoon to speak to Bill 207, the Whistleblower Protection Act, and to explain to the hon. Member for Edmonton-Gold Bar why I am unable to support this bill. The basic intent of the bill is commendable. I certainly can agree with the hon. member's desire to ensure that government is accountable to the people of Alberta, and I'm sure everyone in this Assembly would agree with that intent. My reasons for withholding support from Bill 207 are twofold.

Firstly, Madam Speaker, I do not see the whistle-blower protection matter as being among Albertans' high priorities at this time. Among my constituents with whom I have spoken over the past year, I have no recollection of this issue of whistle-blowing or whistle-blowers' rights ever arising. We have heard from Albertans throughout the past year with respect to what the average Albertan sees as important priorities, and those priorities are health care, education, children's services, and taxation levels. Now, this is not to say that the members of this Assembly should only draft legislation on the basis of what they hear from their constituents. If there's a legitimate concern which needs to be addressed for the greater public good, then I believe that the government and this Assembly have a responsibility to address such a concern. However, Bill 207 proposes a solution to something that is not a problem.

In most provinces employee concerns are handled within relevant departments or agencies as a first step. This is a practical solution, and it seems to work well across the country. In those provinces with an ombudsman office – and there are several of the other provinces without such an office – any further steps in the complaint process are handled as they are here in Alberta.

The other day the hon. Member for Edmonton-Gold Bar said this, and I quote from *Hansard* at page 655: "The province of Ontario also has comprehensive whistle-blower legislation." Now, it is true that Ontario did pass a bill back in 1993, Madam Speaker, which contained provisions for whistle-blower protection, and I believe it was Ontario's legislation that the hon. Member for Calgary-Buffalo likely used to model this bill on when the Whistleblower Protection Act was originally drafted in 1994. From what I can see, the Member for Edmonton-Gold Bar has changed very little from this original draft. What I would like to point out to the members of this Assembly is that Ontario has never proclaimed this legislation in force. Why the Member for Edmonton-Gold Bar did not mention this is a matter of concern, and I must conclude that it reflects upon the accuracy of his research.

There's another matter that the hon. Member for Edmonton-Gold Bar said yesterday in his comments. Once again I quote from *Hansard* at page 655. He said, "The Ombudsman in his

annual reports has repeatedly recommended this type of protection, and he has recommended that we use his office." Now, if I heard the hon. Member for Calgary-Buffalo this afternoon correctly, he said much the same thing. What I understand them to say is that the Ombudsman supports whistle-blower protection. I would say, Madam Speaker, as a challenge to the Liberal research: please disclose and produce those annual reports in which the Ombudsman recommends whistle-blower protection, as has been suggested by the hon. members in this debate.

My second objection, Madam Speaker, with regard to Bill 207 is that it's repetitive of mechanisms that already exist under current legislation and policies. Indeed, some of what is in the bill is redundant. Many of the provisions of this bill are already addressed within the Public Service Act, the Ombudsman Act, and the Freedom of Information and Protection of Privacy Act. At the same time, there are provisions within the bill that are quite problematic, and I'll outline those shortly.

Madam Speaker, there are already many adequate measures in place to aid employees who wish to bring forward issues of concern. Members of the public service are not without recourse, as the member opposite would seem to suggest. There are several steps an employee can take in instances where he or she believes that there may have been a situation of government wrongdoing. Obviously, the first step is for an employee to approach his or her employer or direct supervisor. This is the most direct method, enabling the employee to raise the issue without contravening their oath of office. It also allows misunderstandings to be cleared up at the start should that be the case. Circumventing this route and approaching the Ombudsman directly, as this bill proposes, would certainly complicate a situation of misunderstanding unnecessarily. If indeed the employee has a legitimate concern, approaching management directly is the most efficient means of addressing the issue. If your employer is acting inappropriately, mismanaging public funds or mismanaging the institution itself, it seems logical that they are also in the best position to correct that problem.

4:20

Now, I'm aware that there will be those occasions and those individuals who are well aware that what they are doing is not right or in fact may be illegal, but there are also many cases in which wrongdoings are carried out with the best of intentions. It could be that all the information was not available when the decision was made or that other mitigating factors were involved. In those cases the employee's intent, that of solving the problem at hand, is best served by approaching the individuals who are best equipped to resolve the situation. Unfortunately, Madam Speaker, the underlying assumption behind Bill 207 seems to be that government wrongdoing is wilful and deliberate. That assumption comes through in encouraging public service employees to approach the office of the Ombudsman instead of their employer.

It has been the position of this government, however, to establish here in Alberta the best and most efficient public service in Canada. Madam Speaker, this was recognized and identified recently in the budget as a priority of this government. Achievement bonuses were announced in the budget as a way of rewarding government departments that find new and better ways of conducting business and providing services. It is to everyone's advantage to work together to avoid problems of waste or mismanagement. Staff, management, the minister's office: everyone benefits when the system runs well.

There may be cases, Madam Speaker, where an employee approaches the department and feels that the way in which a

complaint was handled was unfair or that unjust action was taken against that employee. There are steps at this point which the employee can take. Unionized employees have a collective agreement between the union and the institution, part of which outlines a grievance procedure. The grievance procedure is handled in its initial stage by the relevant department. If after utilizing this process the employee feels that the issue has not been handled satisfactorily, they can then ask the arbitration board to handle their case. Non-union or opted-out employees utilize a similar procedure through an appeal panel appointed by the personnel administration office. This appeal panel is made up of public service employees from other departments or agencies in order to ensure the greatest degree of objectivity. In other words, there are already fair and adequate mechanisms in place.

Employees who have been personally affected by government action may also take their concerns to the provincial Ombudsman. The Ombudsman, Madam Speaker, is an objective party operating at arm's length from the government who is appointed by the Lieutenant Governor on the recommendation of this Assembly. His role is to investigate

any decision or recommendation made, including any recommendation made to a Minister . . . relating to a matter of administration and affecting any person or body of persons in his or [her] personal capacity, in or by any department or agency.

Now, it is quite clearly stated in the Ombudsman Act that this office is to be used as a last recourse; that is, all other avenues ought to be exhausted before the Ombudsman is approached. Bill 207 would contradict this long-standing requirement of the Ombudsman's role. In fact, Madam Speaker, there are a number of elements of this bill that go against the intended role of the Ombudsman's office. I believe that these incongruities would create not only a confusing situation but would also undermine the role of the Ombudsman as it has existed in this province for many years.

One of the most serious conflicts between the Whistleblower Protection Act and the Ombudsman Act concerns the issue of confidentiality. The very essence of ombudsmanship is confidentiality. This bill undermines this confidentiality and along with it the Ombudsman's office itself.

Bill 207 requires the Ombudsman to disclose the investigative reports prepared under the Whistleblower Protection Act to the public unless it is not in the public interest to do so. Madam Speaker, files held by the Ombudsman are intended to be kept in strict confidence. They are not intended to be disclosed to the public. The Ombudsman Act protects the confidentiality of the Ombudsman's investigations and materials gathered during the investigative process. The provisions governing confidentiality in the Ombudsman Act are there for the protection of both the complainant and the office itself.

There is a related conflict, Madam Speaker, between the bill and the Freedom of Information and Protection of Privacy Act, which prevents public access to the Ombudsman's files. There is an interesting and ironic situation which arises from this incongruity, of which the Member for Edmonton-Gold Bar may or may not be aware. What would happen if this bill were to become law is that it would essentially create a two-tiered system whereby members of the public or employees operating under the Ombudsman Act would be privy to a level of confidentiality greater than that enjoyed by an employee acting under the provisions of the Whistleblower Protection Act.

Allow me to explain. The Ombudsman Act holds that the Ombudsman and every person holding an office or appointment under him shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their functions.

By contrast, Madam Speaker, Bill 207 allows a number of

instances where the Ombudsman can release information given to him in confidence. In addition, as I mentioned a few moments ago, the Whistleblower Protection Act requires the Ombudsman under certain circumstances to place material in a public file. In effect, this bill creates a different standard of confidentiality for different individuals, a situation that is not only discriminatory but which is inconsistent with the long-standing role of the Ombudsman in Alberta.

Madam Speaker, there are a number of other areas in which the content of the Whistleblower Protection Act is inconsistent with the Ombudsman Act. Currently, the Ombudsman does not have jurisdiction over colleges, universities, or contracted agencies. However, under Bill 207 the definition of employees is individuals employed by an institution, as defined in the act's regulations, or by contractor.

There's also a shift in discretionary powers away from the Ombudsman to the complainant. Under the current act the Ombudsman may make any inquiries, hear or obtain evidence, and regulate this procedure in any manner he sees fit. The Ombudsman controls the investigation and what information will be provided, not the complainant. This seems logical, for the Ombudsman has an expertise in conducting confidential and serious investigations that most of us do not share. This would make him better suited to handle an investigation than a complainant.

However, the hon. Member for Edmonton-Gold Bar seems to take the opposite view. Bill 207 alters the current discretionary authority of the Ombudsman and limits many of his actions to those that are consented to or requested by the employee. There is a strong possibility, Madam Speaker, that by requiring the consent of an employee in conducting an investigation, Bill 207 may undermine the role of the Ombudsman. Allowing employees influence over the investigative process seems to assume that they have rights with respect to the information disclosed to the Ombudsman. I admit that I find this rather puzzling.

Whose rights are the focus of this bill? Is the bill most concerned with the interest of the whistle-blower or those of the public at large? The intent of Bill 207 is ostensibly to encourage the protection of the public interest by public-sector employees. For example, the bill explicitly gives the Ombudsman powers to advise employees on what constitutes "serious government wrongdoing that ought to, in the public interest, be disclosed." Yet this bill allows an individual to thwart an investigation into a problem which may affect the public interest.

4:30

The employee is given powers under this bill, Madam Speaker, to prohibit the disclosure of information by the Ombudsman to the head of an institution. The employee also has powers to prevent the submission of a report by the head of an institution. It would seem to me that a whistle-blower who is willing to deny the furtherance of an investigation or affect the conduct of an investigation is acting upon self-interest, not the greater public good. If self-interest is not the rule or motive, one wonders how objective and informed a decision could be by a whistle-blower regarding the conduct of an investigation.

Madam Speaker, there are many other inconsistencies and conflicts between the provisions of the Ombudsman Act and Bill 207. There is then, of course, a question of interpretation. Which act applies when there is a conflict between the two pieces of legislation? This raises some serious issues, as I have indicated, for the role and indeed the credibility of the Ombudsman's office, which has long been highly regarded across this country.

Actually, Madam Speaker, does this not raise an even more basic question? Why was this legislation drafted with such gross incongruities? Was the current Ombudsman Act not examined by the member opposite when he decided to bring forward the bill? As I stated earlier, it appears as though this bill was very closely modeled on a bill passed in Ontario in 1993, a bill that Ontario's government has chosen not to proclaim into force. So what we have here is a bill modeled on an unsuccessful piece of legislation from another jurisdiction that conflicts seriously with legislation in this jurisdiction.

It is not just the Ombudsman Act with which there are conflicts and redundancies, Madam Speaker. There are also several problems vis-à-vis the Freedom of Information and Protection of Privacy Act. Both acts provide for disclosing information that ought to, in the public interest, be revealed. In fact, many of the requirements are similar. The Freedom of Information and Protection of Privacy Act requires the release of information pertaining to "a risk of significant harm to the environment or to the health or safety of the public."

For example, given the requirements within that legislation to release information in the public interest, Bill 207 seems unnecessarily repetitive. In light of the exemption of the Ombudsman's investigations from the Freedom of Information and Protection of Privacy Act, which I raised a few moments ago, there's a conflict between the two acts. This is due to the fact that the Ombudsman must not investigate an issue without the Privacy Commissioner's consent if under the Freedom of Information and Protection of Privacy Act the Commissioner has the power to review it. This omission was understandable when the Member for Calgary-Buffalo originally introduced this bill, as the Freedom of Information and Protection of Privacy Act was not yet law. But it is law now and should have been taken into account.

I would like to reiterate that I agree with the principle of open and accountable government. I also agree that employees who wish to effect change or raise an issue for the greater public good should not be penalized for doing so as long as they act wisely and in good faith. However, I believe that the current mechanisms in place through the acts and offices I have discussed already address the issue of whistle-blowing sufficiently. In addition, I find far too many flaws within Bill 207 to support it, even if whistle-blowing legislation were needed at this time in Alberta. As such, Madam Speaker, I will be voting against this bill.

Thank you.

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

MR. MITCHELL: Thank you, Madam Speaker. I would like to support the Whistleblower Protection Act of 1998 and would like to take a few moments to outline my arguments in that regard.

I would like to begin by saying thanks to the Member for Calgary-Glenmore for clearly spending a great deal of time and paying a great deal of attention as well to this bill. It is, I think, a form of flattery to the initiator of a bill of this nature that a Member of the Legislative Assembly would take it to be so significant and so important that he or she would analyze it in the detail in which, clearly, the Member for Calgary-Glenmore has done.

He says that he feels very, very strongly about the need for openness in government. He feels that there are some flaws in this piece of legislation. What I would ask that he do is support

this bill in principle – because he says he accepts the general principle of openness and how this might contribute to it, I think – and then offer suggestions for change in committee. We would be more than happy to accept amendments to strengthen this bill and to have it reflect some of the advantages or improvements that were included in his comments. The level of analysis and detail that he's undertaken shouldn't go to waste. We appreciate it, and we'd like to act on his suggestions.

I will say that where his argument is particularly weak is in his unsubstantiated assessment that there is no need for whistle-blower legislation. Madam Speaker, he also said that he couldn't find wherever it was that the former Ombudsman has made the recommendation that in fact whistle-blower legislation is required.

I would like to read from the former Ombudsman's paper called *The Need for Complainant Protection*, which he presented to the first investigators' course, International Ombudsman Institute, in August of 1992. In it he states:

As our societies move into the realm of refining human rights and human rights issues, it is becoming more and more apparent there is a need for legislation which allows for the investigation of complaints against public servants by incorporating a clause for ensuring protection from retaliation or retribution to those who register a complaint.

I'm using Mr. Harley Johnson's words.

People have approached me, both in writing and verbally, indicating they have a fear of requesting an Ombudsman investigation into certain circumstances because they feel as individuals, or as corporations, they may face some form of retribution because they made a complaint and requested the Ombudsman to provide an independent investigation of their concerns.

The former Ombudsman goes on to describe circumstances, testimonials to this fact which I think are very powerful in and of themselves. Here's an example of one, and I quote: a health care worker indicated she knew of cases involving serious patient abuse, but she feared by making a formal complaint to the Ombudsman it would cause her to lose her job or face ostracization by fellow health care workers.

Madam Speaker, if there are patients whose relationship with a health care worker or with some other person is such that it isn't public and isn't particularly exposed, we could imagine that logically there could be cases of abuse which that patient is unable to express or have the opportunity to express. A health care worker would be a legitimate person, a responsible person to report such an abuse for somebody who might otherwise be very, very much helpless in these circumstances. Here's one health care worker who has indicated that she is aware of these abuses on at least a number of occasions and cases, and she is afraid to refer this to the Ombudsman because of ostracization or because she might in fact be caused to lose her job. Whether or not the Member for Calgary-Glenmore thinks this is a problem, it clearly is a problem if this health care worker thinks it's a problem and has no protection or no structure through which to overcome it.

Another example:

A provincial public servant expressed concern that there was an unfair employment situation in a specific department, but the public servant was unwilling to make a formal complaint to the Ombudsman for fear of retribution and lack of future job security. Another one, and this is a particularly powerful example:

A parent of a mentally handicapped adult identified concerns about the level and type of service available for that handicapped person. The parent was unwilling to complain formally because the service delivery in the area of the province where the client resides is under the control of a single government worker. As a result, considerable power rested in the hands of this one worker, and all decisions about individualized services are at the

discretion of that one worker. Therefore, a complaint was perceived to have a very significant negative impact on this handicapped person.

Here are three legitimate concerns that I think any reasonable observer would say are legitimate concerns, in which three people have clearly indicated they could not exercise the vehicle of an Ombudsman complaint for fear of what the retribution might be.

4:40

Madam Speaker, it's not simply an isolated internal phenomena within the public service or with the people who just deal directly with government, as was the case in my third example. There has been an aura, I think, engendered in this province of fear of a government that will retaliate if people don't undertake to do what it is that the government would appreciate. In fact, during the election it was explicitly said – certainly it was an argument that circulated around the election – that people were fearful that they would lose something or not get something for their area or for them as individuals if they voted against the Conservatives. So this isn't something that has come from an isolated context. This concern about ostracization or concern about retaliation, retribution towards somebody who would complain via the Ombudsman about some government activity is a very real concern and in fact is prohibiting better government service, more open government service for people in this province.

We can imagine, Madam Speaker, a number of cases where whistle-blower protection would make for better government policy, would provide for greater accountability and openness on the part of government. For example, today we discover on the question of Al-Pac that there is clearly a significant loss to Albertans, \$155 million. Yet there are a great deal of questions surrounding who it was and the processes that were undertaken to structure that Al-Pac deal in the early '90s, 1990.

Had there been whistle-blower protection at that time, it might well be that somebody observing this process from the inside could have complained about it to the Ombudsman, cut off or at least changed the course of this deal. If the deal was proceeded with, perhaps the arrangements would have been more rigorous and the protection for Alberta taxpayers would have been more rigorous, and we wouldn't be having to stand in the House as we did today and yesterday, my colleague from Edmonton-Mill Creek pursuing the issue of a \$155 million loss to Albertans, a loss which could have hired, as I said today, many, many nurses, many, many teachers. It could have kept open long-term care beds, upwards of 1,000 of them per year for five years. So there is a consequence, a very real consequence, and tangible to people in this province because of the absence of whistle-blower legislation.

I think there's another circumstance that I haven't heard contemplated in this debate that calls out for whistle-blower protection. After governments have been in power for as long as this government has, often the accumulation of patronage appointments means that there is a very, very precise, specific, ideological perspective that isn't necessarily fair by any means. It isn't necessarily premised upon empirical evidence but is often just driven by ideological bias. That can have very, very dire consequences. I would venture to say that we see that in the nature of the health care cuts which are now coming home to roost, as it were.

Whistle-blower legislation would allow professional public servants to have a course of action to complain in a way that's legitimate about actions being taken by people who have been appointed by patronage. This happens a great number of times of

course. Governments have that. In fact, the Justice minister just appointed another judge, and apparently somebody whom he worked with in a former business he was in was appointed a judge as one of his first appointments. A friend of his who's a corporate lawyer is now a judge. These things happen, and in fact it puts professional public servants in a very, very awkward position. It would be useful if they could have the chance to complain to the Ombudsman in a way that would allow them to be protected but would ultimately derive some good because of the exposure of a potential wrong.

Madam Speaker, it's interesting that the government seems so sensitive about having this particular legislation, because they seem to survive the onslaught of recommendations and reprimands, if I can use that term, by the Auditor General. The Auditor General has in legislation the power to comment, has done some excellent work on behalf of Albertans, has made a variety of recommendations and conclusions, many of which are deeply embarrassing to this government. At the same time, the government doesn't respond to all of them, doesn't respond to enough of them, but it is a prod in the right direction. If the government doesn't want to accept whistle-blower legislation, one can only wonder whether they are really enamoured of the Auditor General's process, which is deeply steeped in tradition in our parliamentary system and which has set the precedent for this kind of legislation which, as is the case with the Auditor General's role, will simply enhance the openness, the exposure, the accountability of a government that is only stronger when subjected to those kinds of processes.

Another feature of this legislation that's important to mention is really in response to the Member for Calgary-Glenmore, who says that there are other pieces of legislation and either said explicitly or inferred that common-law provisions would allow the protection for the whistle-blowers that this legislation contemplates. In fact, many experts argue that the current protection in Canadian common law is inadequate, and in fact the only protection from retaliation that falls short of criminal behaviour is his or her right to damages for wrongful dismissal. Those damages may be inadequate in those positions in which the government is a near exclusive employer; that is, you lose your job, you get some damages, but you never find another job in your field. Also, those damages would not normally be payable for the more common forms of retaliation, as subtle as they are, such as harassment on the job or unusually negative job performance appraisals. People are put in a very vulnerable position in these circumstances, Madam Speaker, when they want to do what their conscience determines to be the correct and the proper thing for them to do.

I think it can be safely said that tyrannies, no matter how small or no matter how large, are based upon lies and intimidation. We have been blessed, generally, in our parliamentary system with having outlets and procedures that have diminished much of the intimidation that can exist in government – elsewhere in the world it does – and that expose many potential lies or limit their existence in the first place. I think, Madam Speaker, we have a circumstance in this government where there are excesses. Tired government can provoke these excesses. There are excesses that need to be exposed to keep government good and proper and, yes, stronger than it might otherwise be. If that is not the case, then a strong, well-motivated, well-intentioned government would embrace this kind of legislation, because it would ensure that they sustain their level of strength and openness if that is at a proper level. Moreover, why would they be fearful of whistle-blower

protection which would not reveal things untoward if that government is as good as they say they are?

The point, Madam Speaker, is that we can never be sufficiently vigilant, never be vigilant enough to ensure that government isn't intruding in people's lives, making mistakes in their lives in a way that is avoidable. We should always, particularly as Members of this Legislative Assembly, want to pursue the highest ideals of openness and accountability. We should always want to structure as much as we can a society free from intimidation and free from lies. This whistle-blower legislation does all of those things, and it would be a tremendous asset to the structure and processes in this Legislature and on behalf of Albertans. It would make government stronger, it would make it more open, it would make it more honest, and it would make it simply better government on behalf of the people of this province.

4:50

Therefore, I would ask that Members of this Legislative Assembly support this legislation just as the Justice minister did earlier in his career when he was a prominent member of the Deep Six and was outspoken in a refreshing way and prodded and pushed his government in a refreshing way. If anybody would not have reversed his position on such a significant point as the question of whistle-blower legislation – and I say this with great admiration – one would have expected it to be the Minister of Justice, but I guess it's a long, long way from the corner in which the MLA from Calgary-Glenmore finds himself to the point at which the now sitting Justice minister finds himself. Somehow the steps along the way to get from there to here involve a question of reversals and reassessment and review and changes of position. Changes of position, Madam Speaker.

So it is not, I guess, with surprise but it is with disappointment that I saw today one of the formerly most outspoken Members of this Legislative Assembly capitulate to the pressures from his whip, the Member for Medicine Hat, and argue against this whistle-blower legislation, which would simply make Alberta an even better place to live.

Thank you, Madam Speaker.

THE ACTING SPEAKER: The hon. Member for Edmonton-Beverly-Clareview.

MR. YANKOWSKY: Thank you, Madam Speaker. I'm pleased to rise and speak to Bill 207 this afternoon and to state my opposition to this bill before the members of this House. I believe this bill sets up a very dangerous situation for government and the public service in Alberta. The potential for abuse is great.

The act expands the mechanisms by which public service employees would be able to raise issues that they feel constitute serious government wrongdoing to the attention of the provincial Ombudsman. As long as a complaint is brought forward in good faith, no action may be taken against the employee.

Madam Speaker, there is an implicit assumption here within the Whistleblower Protection Act that that wrongdoing, which may take place within the public service, would be caused by management and caused willingly and knowingly. Now, this certainly can take place. Management of organizations within both the public and private sectors may choose to abuse their positions of authority, and I'm certainly not denying this possibility.

What bothers me deeply about Bill 207, Madam Speaker, is the abundance of mechanisms to punish employers who act improperly but the absence of measures to deal with employees who fail to act in good faith. While I'm certainly not suggesting this

would be the norm, I believe it would be foolish not to recognize the possibility that unscrupulous individuals may attempt to manipulate such legislation to their own advantage, possibly injuring both the institution that they work for and the taxpayer in the process.

There's also somewhat of a contradiction regarding the appeal or a review of an employee's or whistle-blower's actions. Even though the member whose name appears on the bill said in his speech yesterday, "It is important that the whistle-blower be subject to a review of his or her actions," that does not appear in the bill.

Bill 207 seems only to consider the presence of unscrupulous individuals within the management structure and not the staff. I would suggest that such persons may exist in all job descriptions and wonder about the fact that the bill fails to take this into account.

It is important that the situations in which the employee may or may not breach the oath of confidentiality is clearly outlined. "Good faith" may be too vague a term for these purposes.

It is also important that the whistle-blower be subject to a review of his or her actions to ensure that they meet the requirements, that their motives are not in question, and that their information is as accurate as possible. This is important, Madam Speaker, because ill-informed or malicious uses of whistle-blowing legislation could quite easily cost people their reputations, jobs, families, and even their health.

The bill does not seem to be sufficiently clear in establishing penalties for individuals that reveal information to anyone but the Ombudsman. Again, there seems to be abundant measures to protect the whistle-blower but few to protect the institution.

I would like to take a few minutes to go over the mechanisms that are already in place for public service employees. As the hon. Member for Calgary-Glenmore stated, there are several avenues which may be taken by a public service employee who has concerns about the actions of a government institution, including the department involved, the Information and Privacy Commissioner, arbitration boards, and the office of the Ombudsman.

The first avenue is that of approaching one's direct supervisor or employer. In large organizations, Madam Speaker, where everyone has a distinct and specialized role, it is not always easy for individual members of that organization to see the big picture or vision of that organization. It is therefore important that employees make sure they have all the facts before jumping to any conclusions about whether a wrongdoing may have been committed. This is why it is the position of this government that the first step that any employee takes in addressing a concern should be with management. Government departments already have in place a structure to deal with such concerns, often in the form of an internal employee/management committee.

The Public Service Act provides for the Lieutenant Governor to appoint a Public Service Commissioner to head the personnel administration office. It is the mandate of the personnel administration office to guide human resource policies for the public service. The act allows the head of a department to be guided by the Public Service Commissioner as he or she establishes a framework for addressing employees' concerns and grievances.

[The Speaker in the chair]

Now, within the framework of the department's own policies and the oath of office required of each public service employee,

each employee is aware of their rights and obligations and of the processes for raising concerns.

Mr. Speaker, the deputy minister of each department has the authority to authorize the release of confidential information. Any employee who has a concern can raise it with the deputy minister, who can give permission for the employee to disclose the information or act on the concern.

There is good reason for this oath, Mr. Speaker. Inappropriately released information may be misleading to the public or the stakeholders or may even cause a situation where someone's health and safety is at risk.

5:00

Most of the time, Mr. Speaker, approaching an employer directly is effective. If there has been a misunderstanding on behalf of the employee, that employee's supervisor or manager should be able to clarify the situation. If the employee has expressed a legitimate concern to management, action can be taken to of course address that concern. If action is not taken to the employee's satisfaction, there are several further steps which he or she can take, always following the chain of command.

Now, sometimes, Mr. Speaker, a situation is not resolved to an individual's satisfaction, and that happens quite often. Sometimes this is just bad luck. Sometimes it is as a result of another person's desire to punish or to exact revenge. In those cases, I would argue that there are adequate provisions in place such as grievance procedures or civil suits that already address these situations. However, sometimes a punishment or adverse employment action comes our way because we have acted inappropriately.

Every employee of the public service takes an oath of office when they begin employment with the Alberta government. This oath requires that any information gained through employment with the public service is not to be disclosed without due authorization. The assistants we have working in our constituency offices and so on all take that oath. Everyone knows about this requirement the day they start. This oath is very important to the effective operation of government just as similar confidentiality requirements are in the private sector.

There are numerous forums through which this government acts in an open and accountable fashion. Indeed it is something upon which we pride ourselves as Albertans. The annual reports, business plans, and budgets reveal to Albertans what programs taxpayers' money is spent on and how much of that money goes to each department and program. The Auditor General evaluates the performance of each department and may make suggestions for improvement, and again, these reports are published and open to the public for examination.

In addition, there is the office of the Information and Privacy Commissioner, who administers the Freedom of Information and Protection of Privacy Act. The purpose of the act is to govern the release of information by public bodies and access to information held by public bodies to members of the public. The information referred to in Bill 207 is already covered under the Freedom of Information and Protection of Privacy Act and in a more comprehensive fashion. By more comprehensive, Mr. Speaker, I mean that the Freedom of Information and Protection of Privacy Act requires disclosure of both the good and the bad. Bill 207 merely focuses on the negative, defined as "serious government wrongdoing."

I would suggest that this definition and the scope of the bill perhaps suggest more about the perspective of its sponsor than it does about the operations of public institutions in Alberta. This

government has taken many steps to enhance and ensure open and accountable government in this province, several of which I have just discussed. One of the best ways to achieve the goal of open and accountable government and to fulfill our vision of having the best civil service in Canada is to foster open and positive and rewarding work environments in the public service.

Mr. Speaker, this government is happy to see employees come forward with positive, constructive suggestions for making programs and services operate more efficiently. This is why the government recently announced the system of achievement bonuses for the public service. I believe that Bill 207 would be detrimental to these goals. It could, in essence, foster an adversarial relationship between management and staff. It could most certainly lessen openness within departments and the constructive feedback from employees that can result from such openness. The degree of trust between management and staff and between staff members is sure to be affected when individuals worry that their proposals, actions, or initiatives could be used against them.

Mr. Speaker, this bill opens the door for individuals who wish to act in a vindictive manner against their coworkers or employers. For example, an employee who has a personal dislike of a coworker or who wants to advance personally within a department may choose to exaggerate or manipulate an issue in order to create difficulties for others. If done cleverly enough, damage may be done to the accused individual before the true motives come to light. In some situations this sort of action might even cause damage to a program or service whose operations or standards are called into question. This is of great concern to me. As we are all well aware, sometimes even a hint of scandal can finish a career or the reputation of an innocent person.

Bill 207 does not take this into account. There are no penalties for the abuse of the process. Perhaps a substantial fine would be in order. Imposing a fine for bringing forward false information or acting in bad faith would serve as a check and balance of the legislation.

For this reason, I also have some concerns with the placement of the Ombudsman's reports in a public file, as the bill allows in a number of situations. While the bill prevents the placement of an inquiry report in a public file if it may unfairly damage the reputation of a person or institution or if someone's life or safety could be threatened, this may not be sufficient. It does not take into account, for example, situations in which facts appear in a certain light during the investigation only to be discovered as quite the opposite at a later date. We have seen similar sorts of situations in some high-profile cases in the justice system over the last year: men who were wrongfully tried, convicted, and punished discovered years later to be indeed innocent. Who is to say that these types of situations will not occur under the Whistleblower Protection Act?

In addition, the criteria for what sorts of situations fit under responsibilities of this bill are very vaguely defined. I challenge the Member for Edmonton-Gold Bar to provide the members of this House with a strict definition of "abuse of authority," "gross mismanagement," or "a grave environmental hazard." These are very broad terms, Mr. Speaker. Could abuse of authority include a manager who required regular overtime from his or her employees? Could a grave environmental hazard include the location of a pulp mill located within a few miles of a duck pond?

Even the term "in good faith" may potentially present problems, Mr. Speaker. Up to this point I have spoken of individuals who may intentionally use this bill to cause harm, but what if

those individuals, although acting with good intentions, produce the same result as the ill-intentioned person? As you can see, there are far too many questions that arise from this bill in its current form. I urge all members of this House to not only closely examine the contents of this bill but to consider the consequences of it. Bill 207 is a dangerous bill, and I will be casting my vote against it.

5:10

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

MR. BONNER: Thank you, Mr. Speaker. I rise this afternoon to speak to Bill 207, the Whistleblower Protection Act. In doing so, I would like to compliment the Member for Edmonton-Gold Bar for introducing this legislation, which is needed in this province.

It has a history of need in this province. We could go back to March 23, 1992, when Yolande Gagnon introduced Bill 215, the Ombudsman Amendment Act, which would have protected whistle-blowers from retaliation. We have another report which was referred to earlier by my colleague from Edmonton-McClung, the need for complaint protection, by Harley Johnson, Ombudsman, province of Alberta. This was brought forward in August of 1992. We also had the Whistleblower Protection Act introduced by the Member for Calgary-Buffalo a number of years ago, in March of 1994. So once again we have another group here that is bringing this forward. We heard the ND leader indicate that members from her party had also brought this. So I have a great deal of difficulty understanding how people can say there is no need for this type of legislation.

I heard the Member for Calgary-Glenmore say that this is not an important priority, but it is for the public good, and it is legislation that we should be considering. There is a problem. I heard the Member for Edmonton-Beverly-Clareview talk about the chain of command. He also talked about large fines. These are things that indicate to me: "Yes, we do need intimidation. We do have to keep the little person in their place. We cannot have that person speaking out when they see something wrong, because we do want to keep them in their place." This piece of legislation will certainly allow that little person to speak out.

I also have an article here which is from the *Edmonton Journal*, dated the 6th of August 1997, and I'd like to read a few paragraphs of it, which further indicates why we do need whistleblower protection.

Province denies ban is gag order

The provincial government says it doesn't maintain a gag order on its employees, but a new department memo states public servants must endorse policies or keep quiet.

"As an employee of the government of Alberta you are expected to act in the best interests of the government and not to publicly criticize or attempt to undermine government policies or procedures."

This is a July 25 memo from Don Fleming, then Deputy Minister of Family and Social Services. "This obligation, the duty of fidelity," and again, is fidelity all that we're questioning here? No. We're questioning openness. So to go along:

"The duty of fidelity has long been recognized by judges and arbitrators as an implied term of every employment relationship. These judges and arbitrators have also consistently upheld discipline and discharge of employees who have breached this duty," states Fleming.

Fleming's rules, called "department guidelines - public communications," further state that suggestions that public

servants have a responsibility to communicate with the people of the province are wrong.

Another reason, Mr. Speaker, that we do need this legislation.

As well, looking at this brought to mind the case that I've been working on since shortly after I was an MLA, and it is of a constituent that I've known for approximately 15 years. This constituent was a head nurse in an extended care facility. She was well respected in her field, and part of her job, of course, was to check the records of her patients in there. In checking these records, she noticed that doctors had performed checkups on these patients. Now, she knew this was not correct. This province was being billed for checkups by doctors when doctors were not in the facility. She brought this to the attention of the people in charge.

This lady today suffers extreme stress. She no longer has a job. She was forced out of her job. Her family is in danger of losing their home. She does not have medical coverage. She cannot even afford the medication she requires for this extreme stress. This was because she believed in openness. Yet it wasn't openness. She was intimidated. This certainly should not be allowed to happen in a province that prides itself on openness.

As well, Mr. Speaker, when we look at the Whistleblower Protection Act, it does many, many things. It first of all talks about serious government wrongdoing. We are not talking about these minuscule problems that occur daily at workplaces. We are talking about serious government wrongdoings. We cannot hide these. They must be brought forward. In doing so, we see that there is a process for disclosing information to the Ombudsman on a confidential basis.

Now, it gives him as well a mechanism in here of how he can deal with this, and this is a good mechanism because it does protect the confidentiality of the person making the complaint. He has at his disposal the discretion to determine whether there is in fact a complaint that justifies looking into or whether he washes his hands of it and makes the judgment that there is no complaint. Once doing this, then he can proceed with an investigation, if one is so warranted. Again, this is what should happen. We are surely past the days where we sweep things under the carpet.

So with all these procedures in place, Mr. Speaker, he can continue, compile a report, and in this inquiry report he again has the option of whether he wants to make this public, whether the employee wants to make this public. So there are many, many safeguards in this whole process, and it is a process that we do need.

I do like the fact that there are many procedures in place. So in closing, Mr. Speaker, I certainly support this bill. It will lead to a great decrease in the intimidation of the little person in the workforce, the employee. It will cause an openness in all institutions so that people do not have the fear of intimidation. It will give our professionals in particular fields the opportunity to speak openly and freely about wrongdoings and to use their professional judgment that they have been trained so well to do. This will certainly strengthen the entire process, and it will provide a structure where we can assess what is happening in the workplace and make Alberta even a better place to work.

I thank you for this time to make those comments.

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

MR. JOHNSON: Mr. Speaker.

THE SPEAKER: Sorry?

Actually, hon. member, I should go to the other side. I did not

notice the movement from the hon. Member for Wetaskiwin-Camrose.

5:20

MR. JOHNSON: Mr. Speaker, I'd like to adjourn the debate.

THE SPEAKER: All those in favour of the motion put forward by the hon. Member for Wetaskiwin-Camrose, please say aye.

HON. MEMBERS: Aye.

THE SPEAKER: Opposed, please say no. Adjourned.
The hon. Government House Leader.

MR. HAVELOCK: Yes. Thank you, Mr. Speaker. I move that the House do now stand adjourned and reconvene at 8 p.m. in Committee of Supply.

THE SPEAKER: All those in favour of the motion put forward by the hon. Government House Leader, please say aye.

HON. MEMBERS: Aye.

THE SPEAKER: Opposed, please say no.

[The Assembly adjourned at 5:21 p.m.]

