

Legislative Assembly of Alberta

Title: Wednesday, April 1, 1998 **8:00 p.m.**
Date: 98/04/01

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

[Mrs. Gordon in the chair]

THE DEPUTY CHAIRMAN: I'd like to call the committee to order. Before we begin tonight, we do have some guests to introduce. I would ask for unanimous consent of the Assembly to revert to Introduction of Guests.

HON. MEMBERS: Agreed.

head: Introduction of Guests

THE DEPUTY CHAIRMAN: The hon. Minister of Economic Development.

MRS. BLACK: Thank you very much, Madam Chairman. I'm very pleased to introduce through you to the members of the Assembly a former MLA who is in the members' gallery tonight, the hon. Shirley Cripps, who was the MLA for Drayton Valley. I would ask her to rise and receive the warm welcome.

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

MR. LANGEVIN: Thank you, Madam Chairman. It is my pleasure this evening to introduce to you and through you to all members of this Assembly a group of Albertans who are seated in the members' gallery. This group of 40 Albertans is associated with the organization Citizens for Choice in Health Care. They are here this evening to listen to the debate on Bill 24, the Medical Profession Amendment Act, 1998. I would like to ask them to please rise and receive the welcome of the Assembly.

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

MR. MacDONALD: Thank you, Madam Chairman. I also would like to introduce to you and through you to all members of this Assembly a gentleman who is in the public gallery, Mr. Merle Schnee. If he would rise and receive the warm and traditional welcome of this House, I would be very grateful.

Bill 20 Fair Trading Act

THE DEPUTY CHAIRMAN: The hon. Member for Bonnyville-Cold Lake.

MR. DUCHARME: Thank you very much, Madam Chairman. It is my pleasure to introduce House amendments to Bill 20, the Fair Trading Act. I believe they've been circulated to all of the members. As was mentioned during second reading, representatives of the Auctioneers Association of Alberta have had concerns with Bill 20 in its present form. Many of the amendments presented here address those concerns, but we also have taken the opportunity to include some clarifying amendments on other issues. I'll go through them very quickly, Madam Chairman.

Amendment A clarifies the minister's ability to exempt certain

classes of businesses from various provisions of the act. A review showed that in some cases the act could be interpreted to apply to businesses for which it was never intended. This amendment will make it easier to rectify these cases.

Amendment B clarifies that direct sales provisions do not apply to purchases at auctions. Amendment C is a housekeeping change. We will be relying on the ordinary meaning of the word "mortgage" as the original definition was found to be too broad.

Amendments D and E(b) are technical clarifications, while E(a) reflects a change in the cost of credit agreement. Amendments F and L move the sections that deal with regulatory boards and their functions to another part of the act to allow for the establishment of an auction regulatory board should one be required. G is a housekeeping amendment which deletes the definition of a term that is not used. H streamlines some of the regulations for auctioneers and clarifies that section 124(3) applies only to commercial property. Amendments I and J delete two sections whose provisions will be established in regulations after further consultation with the stakeholders. The rest of the amendments presented here are minor housekeeping, clarification, or consequential changes.

I would now ask the House to accept these amendments.

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

MR. DICKSON: Thank you, Madam Chairman. I have a number of questions with respect to the amendments. I take it that the amendment package is the six pages which have been distributed. I just want to make sure I'm looking at the same one. It goes from A through O?

THE DEPUTY CHAIRMAN: The hon. member is correct. It is one amendment, and we will deem it A1.

MR. DICKSON: Excellent. Thank you very much.

My first observation is that here we go again. We've got a bill that's been introduced and then presented with six pages of amendments. One has to make the observation that when we have the Legislature only sitting one session a year, one would like to think . . . [interjections] Well, that's the reality, members. If we only sit for a number of months once a year, you would think that the government with all of the might and the resources of the provincial government . . . [interjections]

Chairman's Ruling Relevance

THE DEPUTY CHAIRMAN: Hon. Member for Calgary-Buffalo, you know how the chair feels about relevance to the amendment that we have before us. It's only five after eight. Can we stick to the amendment that we have before us, and can we please be relevant to the sections involved there? [interjections] And can we cease with the interjections from this side as well as this side.

Carry on, Calgary-Buffalo.

MR. DICKSON: Madam Chairman, I want you to know that I'm certainly not trying to be provocative tonight. [interjections]

THE DEPUTY CHAIRMAN: Hon. member, you can fool some of the people some of the time, but not all the people all the time. Now, let's go on with the amendment that's been presented.

Debate Continued

MR. DICKSON: All right, Madam Chairman. I quite sincerely ask the member introducing and moving the amendments in his explanation – what I take from it is that there were groups that had been inadequately consulted or groups not consulted at all before Bill 20 was introduced. A number of the amendments here are not even issues that had been raised in second reading debate. For example, if one looks at the huge provision in terms of amendment L – and I take it we're dealing with the entire package, so I can refer to different elements of it – we have the minister making regulations, and the regulations are far-reaching. “The Minister may make regulations.” “A regulatory board may make by-laws.” So what we've got is this cascading delegation of authority.

If you put this in context, we've moved from a province that used to have a minister who stood in this House who had responsibility for consumer and corporate affairs. Indeed, we still have a minister who answers to that along with myriad other duties. So we've gone from not having a separate department dealing with something as important as consumer and corporate affairs to it being simply one element of an incredibly busy department already in terms of municipal affairs.

Then we create regulatory boards, which the minister creates by regulations, regulations made outside the Legislative Assembly, regulations typically made in secret, where government consults with those few selected stakeholders that the government deigns to meet with and shares the proposal in terms of regulation. Then we go on and not only do we have the regulatory boards and the regulatory boards “may make by-laws” – this is all set out on page 3 of the amendment package. The bylaws aren't subject to the Regulations Act. We've got the provision that the director can “delegate to a regulatory board any or all of the Director's powers.”

So the general observation I wanted to make is that we move responsibility for consumer issues further and further away from this Chamber. The kind of accountability that Albertans expect from ministers of the Crown is diluted further and further and further. To anybody who says, “Well, this is only one other step,” we have to look at this in the bigger context of what's happening in this province, the adoption of a kind of implicit corporate agenda, a corporate model of governance, one that simply says there isn't an important role for debate anymore; there isn't an important role for serious questions to be asked about delegated authority.

We also have what I'm going to suggest is sloppy lawmaking. You have to say, Madam Chairman: how can you have a bill introduced when we're only sitting one time a year and the government can't put together a bill that generally addresses the concerns of the constituent elements of the community, and then you bring in six pages of amendments? Doesn't somebody have to say: what went wrong; who was asleep at the switch?

8:10

One might say: well, the government deserves praise for having recognized errors in a bill and then trying to do the remedial work. But I think what it does is undermine confidence. It certainly undermines the confidence that I have in a department that would bring forward something called a Fair Trading Act and simply have not addressed so many weaknesses in the bill to have to bring in this huge sort of amendment package. Then it gets me wondering what other kinds of groups haven't been consulted. What other kinds of shortcomings are there in this bill? So I wanted to outline that concern generally.

The most that can be said of the amendment package is that it's consistent. It's absolutely consistent with a government that wants to take regulation and those kinds of things that should be done to enhance and protect the public interest further and further away from this Chamber, less and less accountability on the part of ministers standing in the House and being accountable for what's going on. That's something worth marking, Madam Chairman. It's something worth lamenting, because it's a very serious issue.

Now, we have a fund which is going to be established. If you look at the new section 139.2:

- (1) A regulatory board may create a fund to be used for the following purposes:
 - (a) to pay claims of persons who have suffered loss or damage.

It's positive to have a fund to which people can have recourse, because too often when we're dealing with consumer issues, you may have fly-by-night operators; you may have people marketing to consumers that have never had to post a bond, where they have no exigible assets that could be attached if in fact somebody gets a judgment against them. So it's positive that a fund should be created, but the regulations provided for in section 139.2 mean all of this is done basically in secret. All of this is done by the Lieutenant Governor in Council, which means cabinet. There's absolutely no input from the Assembly. If we look on page 5, 139.2(7), we have: “The Minister may make regulations” in all these different areas.

Remember, members, that the Zander committee report of some 20 years ago said that regulations should be reviewed by an all-party committee. You know, we've seen . . .

DR. MASSEY: What's the name of that committee?

MR. DICKSON: The Standing Committee on Law and Regulations.

There are people in the gallery today who have a concern about regulations and bylaws that are made by the College of Physicians and Surgeons. Why? The concern is that when a group goes off over here to make bylaws and regulations to which there's no kind of direct public accountability, sometimes all things aren't adequately considered. Sometimes some rights are denied and abrogated. In some cases some people are differentially advantaged. That's the kind of problem that happens if regulations aren't subject to an adequate oversight responsibility.

Now, the Standing Committee on Law and Regulations was created after the Zander committee some 20-odd years ago recommended that that's the way we should manage regulations. In the five years that I've been an MLA, after each election we go through and decide which government members and which opposition members are going to sit on this committee to review regulations. For over 10 years that committee has never been instructed. [interjection] In the space of a decade, the committee has never been mandated by the government of this Assembly to review regulations.

DR. MASSEY: Why do we have the committee?

MR. DICKSON: Some members are rightly asking: what's the purpose in having the committee? Well, it's because the government can go around and beat its chest and say that we have a standing committee. I daresay there are probably some members in this Assembly who in their biographical notes when they go to the Rocky Mountain House Rotary Club and they're introduced as a featured speaker – somebody probably goes through their

résumé, and prominent in there is probably the fact that that member has served on the Standing Committee on Law and Regulations.

MR. LUND: Never been on it.

MR. DICKSON: Well, some members have been deprived of the opportunity of being on this committee.

Madam Chairman, when we look at A1, when we look at the amendment package that we have in front of us and look at the huge scope for regulations, we wonder: how is it that you wouldn't have a standing committee actually given a role, given a responsibility to review regulations? This is important, yet we can see the level of interest. Right now we can look around the room and we can see the level of concern there is about secret lawmaking, basically unabated, uncontrolled, unregulated.

There are some members that can't believe we've gone more than a decade without the Standing Committee on Law and Regulations ever having been required to meet. Madam Chairman, I know there are some members in this Assembly who may be saying: "Can't we give it a rest, Buffalo? You've made this speech before." But, you know, it's going to be three years, or two and a half years, until the time of the next election, and I want to tell members that I'm going to continue to stand every time I see a bill that comes in with this huge kind of delegated lawmaking to be done in secret, to be done outside this Assembly where there's no public scrutiny, and I'm going to object to it. And I object to these kinds of amendments.

There's a role for this Legislature, and it has to be ensuring that regulations are necessarily incidental to the statute, that we don't have bureaucrats building empires, that we don't have regulations being passed off ostensibly for the public interest when they really hurt groups and hurt individuals, and we have examples of that.

So much of this regulation package – and that's what I call amendment A1 – is simply to create a whole lot of powers which are given to cabinet ministers and to the executive branch of government to go off quietly and change people's lives, and those people have no input. Now, some Albertans may be lucky enough. Perhaps if you're a friend of the government, you get chosen to be one of the selected stakeholders that gets consulted when there are some new regulations to be put forward. Well, I represent a lot of people in downtown Calgary, Madam Chairman, who maybe don't have those kinds of influential friends, who maybe aren't in the governing party constituency association, who may not be big contributors to the government party at election time or between elections. Those people don't get invitations to come in and advise the government on what regulations should look like.

MR. ZWOZDESKY: But they're important.

MR. DICKSON: Absolutely they're important. And there are people, you know, in the Crowsnest Pass who also have a concern in terms of how regulations are made. Those people are going to say, "We may have a darn good MLA who does a really effective job in the House," but they also understand the value of oversight in regulations. There's no provision for that here. What this amendment package is all about is delegation and elimination of accountability in this place, and that's just a really big problem.

I know I've got some colleagues that want to address elements of it as well, but I just had to make that observation, Madam Chairman. Thanks very much for your patience.

8:20

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Glengarry.

MR. BONNER: Thank you very much, Madam Chairman. In looking at the amendments to Bill 20, the Fair Trading Act, I must say that generally we are in agreement. I know the hon. Member for Calgary-Buffalo has certainly indicated very strongly and very clearly what is wrong with the way they were brought in. I would like to reiterate along the same lines that there are some serious questions to be answered here, and we would like to raise some general concerns with the process the government uses regarding these types of amendments. [interjections] Well, there are a few amendments here, and we are concerned about it.

The first section I would like to deal with as far as the amendments go is section 24(a)(ii), adding "auction" after "market place." In this particular amendment this changes the definition of direct sales contract. The public auctioneers were concerned that this transaction that takes place at an auction would be included in the definition. We see how the government at first thought that this definition exempted auctions, since they would often occur either at an auctioneering place, a business, a trade fair, an exhibition, or an agriculture fair. However, the definition did not include an auction that would take place at a person's farm or a place where various items may be auctioned.

As we know, Madam Chairman, this happens very often in the province, where people will get into an agreement with an auctioneer and the auctioneer will come out and, perhaps for a fee of 10 percent of all sales, might go ahead and run the auction. So this amendment was a necessary amendment and "market place" certainly is a good addition. It does include all the situations where people here in this province may have need of an auctioneer and in fact bring him out to their location to do business. This amendment certainly does make this part of the legislation much clearer. I think I don't have too many difficulties supporting this particular change.

Now then, the next amendment I see here is section 79, and it is amended in the following manner: in subsection (1) by striking out "14 days" and substituting "30 days." Yes, definitely a very, very reasonable amendment to this piece of legislation. Probably the greatest strength this adds is that it lengthens the time for credit granters to change information when amendment to the disclosure is needed. The new length of time, which is 30 days and of course is an increase over the original 10 days, is not exclusively long. However, one would have thought the government would have consulted with credit granters about this prior to the introduction of this bill. Again, it is one of those changes that my hon. colleague from Calgary-Buffalo had alluded to. I don't know if this was an oversight on the part of the people writing up the bill. It certainly isn't any knock against the Member for Bonnyville-Cold Lake, who I know did extensive work on this and went out of his way to brief me on this. I would think that somewhere behind backdoors or whatever somebody has to catch these before they get this far. We would certainly expect that in a piece of legislation.

I do have some questions as far as amendment E goes, or to this particular section 79. What exactly occurred between the introduction of this bill and now? Why do we require a change to this particular bill at this time? Was this concern raised by the granters, or were they not consulted prior to the legislation being introduced? Why was this oversight brought up here? So again this asks many questions, and I certainly look forward to the responses that will be given to those questions.

In the next amendment here, sections 106 and 107 are struck out. These sections, Madam Chairman, have simply been moved and will now be called sections 139.1 and 139.2. Instead of being in part 10, Designated Trades and Businesses, these sections will now be in part 13, which is Licensing. Again, I do have a problem with why this is coming at this point in our discussions. Why this change now? Why was this change not caught and made prior to submitting the bill here in the House?

This really isn't a major problem for me or, I'm sure, for any of my colleagues, but it does seem to highlight a problem seen more and more with government legislation. Specifically, this change could only be required because of poor drafting and not because of the research done by the hon. Member for Bonnyville-Cold Lake. We are seeing this occurring more and more in the drafting of such bills. When we've had two to three years consultation in the process, certainly this type of error should not be recurring. It should not be something that we have to deal with on such a frequent basis. I would think that in drafting bills, people certainly will have to take a much closer look at the process that is occurring before the bills are introduced and not after.

Now, the next amendment I would like to address this evening, Madam Chairman, is section 124(a), adding the following after subsection (1). Section (1.1) will now read:

The auctioneer's duty to read the conditions of sale or to cause them to be read at a sale by public auction under subsection (1) does not arise if all of the bidders at the sale are regular bidders at public auctions of the auction sales business that is holding the sale.

What does constitute a regular bidder? Is this a person that goes weekly, once a month, once a year, once every two years, or whatever? So again we have not established at this point what a regular bidder is. Does this vary from auction to auction? Does, for example, Osman brothers, who conduct their auctions, have some sort of list they refer to to see who comes on a regular basis? And what is a regular basis? Again, many questions here. As I said, number one is: who would be considered a regular bidder, and where is the line drawn? Is there any consistency between auction houses or auctioneers? I would like to see this particular point clarified so that there is no hazy area in all of this particular area.

The next amendment I would like to talk to is amendment H(b)(4). The bill has a requirement that auctioneers do not make statements that are inaccurate or misleading. The Liberal caucus has no concern regarding that section and in fact supported such a requirement. For example, if we are dealing with oil rigs, then certainly people who are in the know of oil rigs don't have a problem, because they will be sending out some type of expert to deal with this particular issue. If, for example, somebody is going out and buying a hundred cows, then certainly you would expect that person to be knowledgeable of what they are buying. But if the average Albertan is going out to buy a second family car, then there is no protection for this type of person.

8:30

What we would like is that these types of people would be protected, and the average Albertan would see some type of protection here. With this particular amendment we wanted to be certainly upfront. We don't want the average person who goes to an auction in good faith to be misled. I don't know in my study of the bill if there's another section that deals with this particular issue or not. So I'd ask the Member for Bonnyville-Cold Lake if there is some other section in this particular act that would deal with this issue.

My other question, particularly on amendment H(b)(4), is: is this change required? Is it not precisely those people who buy personal household items that should be protected?

Madam Chairman, I've covered quite a number of the amendments here, and I know a number of my colleagues do have other comments to make on the amendments to this particular bill. So with that, I would like to conclude my statements and my comments when it comes to these particular amendments.

Thank you.

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

MS BLAKEMAN: Thank you, Madam Chairman. Just a few questions that I have that have arisen from this astounding six-page amendment that's being put to a bill that has been introduced in this House less than a month ago. I'm quite amazed at that, but I learn something new every day. [interjection] Yeah, indeed. In section F of the amendment, which is on page 1 of 6 pages of amendments . . .

DR. MASSEY: How many pages?

MS BLAKEMAN: Six pages.

I notice that sections 106 and 107 are struck out, and they reappear again renumbered, it appears, as 139.1 and 139.2 under the licensing section. Originally they were under designated trades and businesses. There's no explanatory note given as to why this happened, and I'm wondering if I can just get a quick explanation about the reasons for why they were moved.

In section G of these amendments section 121(c) is struck out. That's where they're talking about the definition of a consignor, and it's carefully going through all the other definitions of parties that are involved in the auction business. I'm just wondering why the consignor has been taken out of that. I'm just wondering the reason why this has happened.

The other thing I'm noticing is the number of times that the regulations are referred to or where the amendments here are allowing for the minister to make additional regulations, and I'll echo the concerns of my colleague from Calgary-Buffalo. It's not that I believe that every single thing must be detailed in the legislation. I think it's perfectly appropriate in many cases that the how of what's being planned is indeed done in regulations, but I do find that for the public that's trying to get information, often it's harder to get information on regulations. I guess in that instance I'm suggesting that if it really is important and integral to the legislation that it be included in the legislation, which at least is a bit more readily available in the *Alberta Gazette*, where it's published.

Section L, which is section 139.1, which would have been the old 106, which has now been moved to licensing, appears to be a sort of designated administrative organization. It's "providing for the establishment of regulatory boards" and how the boards operate and what powers they have, et cetera, et cetera. Where is the accountability there for a citizen who was attempting to follow through this labyrinth of different levels?

In section (9), so that would be 139.1(9), it's saying, "a person may not, without the written consent of the Director, disclose any information." I'm wondering under what circumstances the drafter of the bill is envisioning information would be released. If they could maybe outline that for me, I'd appreciate it.

Without meaning any offence – and I know that the sponsor of

the bill has worked hard on it – I look at this sort of thing and I think: well, maybe we do need a fall sitting so there's a bit more practice in drafting legislation, if we have to have six pages of amendments come back to us three weeks after the bill has been introduced. I'm sure that this is all being done for the betterment of Albertans. I appreciate the work that's been involved in it, but I am a little astounded by this. So I look forward to the answers to the questions that I've asked, and I appreciate the opportunity to ask them.

I think there are other colleagues that also want to participate in this Committee of the Whole. Thank you, Madam Chairman.

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

MR. MacDONALD: Thank you, Madam Chairman. I, too, rise this evening to say a few words regarding the amendments to Bill 20. When the hon. Member for Bonnyville-Cold Lake introduced this legislation, I believe he mentioned that it was 30 years since we last reviewed in this province consumer-related legislation. That's fine. This looks to be quite an extensive piece of legislation, and I'm sure the hon. member and his staff have completed a lot of research regarding this matter. But if there's one of these amendments that begs me to caution this House, of course it's the amendment that is going to take place on pages 78 and 79, delegation to regulatory boards. Once again, we're looking at more government by regulation in this province. In the original act we deal with this of course. It seems to be that the usual trend or trait of the creators of this legislation is more government by regulation.

8:40

The hon. Member for Calgary-Buffalo spoke earlier, and his comments were on the same general theme as what I would like to caution this House about, Madam Chairman, and that's adding more regulation. I'm sure this bill was not crafted in haste. I understand it's been a work in progress for two or three years. Amendment after amendment after amendment and then of course we come to the regulations. I refer to it as governing by fax machine. Because without fail, if this Assembly is not in session, if you're at your constituency on a Thursday or Friday, the fax machine kicks in about 4 o'clock in the afternoon and we get more orders in councils, or OCs, and regulations. Sometimes I think we're going to have to get in Alberta a special diameter in thickness of fax paper for constituency offices just so the constituency manager doesn't have to stand there and change the paper whenever these OCs and regulations occur, because this is getting out of hand. [interjections] There were 300 I understand from my hon. colleagues, and I would like to thank them for that.

But this is not the way to govern, Madam Chairman. Regulation after regulation after regulation. Perhaps a one-, three-, or four-week session of the Assembly in the fall, where we can all have an exchange of ideas. If you have changes to the legislative process or a minister wants to stand up and speak out on what he or she thinks is a good idea for this province, well, then they can bring it forward and we can debate it.

With that, Madam Chairman, I would like to cede the floor to one of my hon. colleagues. Thank you.

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

DR. MASSEY: Thank you, Madam Chairman. I, too, would like

to speak to the amendments. We've been supportive of the bill and the thrust of the bill as put forward by the member, but the amendments this evening do cause second thoughts. Part of our nervousness, I guess, rests in some comments that were made by members of the government before the session began. At that time we were told that a lot of the session would be devoted to housekeeping bills. That has not been the case. Bill 26 was far from a housekeeping bill. Bill 27, which is in front of us, is far from a housekeeping bill. So when the member opposite introduced the amendments and indicated that a large part of them were housekeeping, our antennae started to bristle and we started to look a little more closely at the kinds of things that were being proposed.

[Mr. Shariff in the chair]

If you look at the amendments that follow in section L, the delegation to regulatory boards under 139.1(1) and you go back to the kinds of licences that are being talked about, these are business licences and the designated businesses that require licences. What is being delegated to regulatory boards is a great deal of the authority for the regulation of those licences and the issuing of those licences.

If you look at 139.1(1), the minister can set up regulatory boards and delegate functions to them and the minister can appoint the members of the regulatory board without limitation and provide for the numbers and the method of appointment. So whoever is going to be on the regulatory board is completely within the minister's control. There's no assurance of balance or interests being served on those boards. Then that regulatory board, once it's appointed, can make bylaws that are far reaching, bylaws respecting the conduct of the business and the affairs of the board so they can determine the kinds of powers they will exercise – they determine that themselves – when they're going to call their meetings and the kind of business that's going to be discussed at those meetings and the “appointment, removal, functions, powers, duties.” They can delegate “to the officers of the board or any committee of it any powers” that the board thinks they'll need “to manage the business and affairs of the board” and membership, duties.

They have really almost carte blanche in terms of the kinds of decisions that they're able to make, all of this by a board that was appointed by the minister and solely serves at the pleasure of the minister. I think that should give us pause to reflect. Why is that kind of power needed? Why is this kind of regulation being enacted at this time? Why is this kind of amendment needed?

Then it talks about the relationship of the director to the board and being able to delegate all the director's regulatory authority to the board and all the director's powers. So I'm not sure it can be claimed that this is all just housekeeping. I think many people in business seeking licences might look at that kind of regulation and that kind of closed dealing with business practices as being more than housekeeping.

The minister also has control under these amendments to collect fees “by a regulatory board on the Government's behalf” or to remit the fees, whatever he sees appropriate, and respecting “the payment of a commission to a regulatory board for its services under this subsection.” So a little bit of free enterprise slips in here.

Again, two further sections, (8) and (9), the power of that regulatory board to “collect money by the levy of assessments.” Even the kind of information that they may dispense is circumscribed by these amendments.

If we go on to 139.2(1), the regulatory board can create a fund to pay claims for "any other purposes authorized by the regulations." So the regulatory boards end up having a great deal of power in terms of licences and the actions of licensees. Again I wonder if that's just housekeeping.

Further sections, four sections go on to talk again about more powers of those regulatory boards. I wonder how wise this is. As I indicated at the outset, we intend to support the bill, but it really makes us question when we look at this bill, when we look at the bill we considered yesterday on private property, when we look at the number of bills that come in and are immediately followed by a spate of amendments. It really does call into question: how carefully is the legislation being crafted? How carefully is that legislation being vetted by the government? Of course, the crowning example and a fear that rests in our hearts is Bill 26, that somehow or other it made it through the system without someone raising some red flags. So, again, when these amendments come forward and they're labeled as housekeeping, it gives us pause to think and to start to look at those amendments a little more carefully than we might otherwise do.

So with those comments, Mr. Chairman, I'd like to conclude my remarks. I look forward to the response of the bill's initiator to the reservations that we hold on this bill.

Thank you.

8:50

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

MR. ZWOZDESKY: Well, thank you, Mr. Chairman. I am just delighted to rise this evening and speak my piece on the Fair Trading Act and in particular on the amendments as presented by the hon. Member for Bonnyville-Cold Lake. I have several comments to make which may take a little bit of time. So those members who wish to join me in participating or listening and making comments, I invite them to do so.

I am very excited by this bill. I am really excited, and that's what propels me to my feet tonight. Fair trading is something that I have been pushing along the way ever since I've been involved in business activities in the province of Alberta. I'm sure the hon. Member for Bonnyville-Cold Lake has some experiences in that regard as well. So as I look at the Fair Trading Act overall, the hon. member will know, because it's in *Hansard*, that I have already spoken in support of most of this bill. There were a few qualifiers that I left on the record, which the hon. member has noted. However, tonight, Mr. Chairman, I realize that we're rather restricted because we're speaking mostly to the amendments as proposed.

As I say, it's basically a good bill. I have no problems with the main intentions of the bill. There's a lot of housekeeping, it's true, that does get done. There are a number of different acts or at least pieces of legislation that have been amalgamated here in relation to serving the consumer and the customer, to use the government's term, in a better way. I am in full support of that. I think it's extremely important that we do that from time to time, and I think it's also important that we address shortcomings in any of those presentations. I think that's what these amendments do.

I'm struck by the fact that in spite of this being a generally good bill, there are one, two, three, four, five, or six pages of amendments within the last few days since it was presented. That causes me a little bit of concern. I've just now received these amendments and had a chance to look them through very quickly, but I do note that we're looking at – gee, I didn't do a count, Mr.

Chairman – it must be close to 60 or 70 different portions that are touched on or amended. I'm sure they're all for good reason, but it does cause me a little bit of concern that we have so many changes coming through so quickly.

Now, chances are that the hon. member who's sponsoring the bill has had a chance to review the bill and look at it more deeply and he's taken into consideration some of the comments that were made by other speakers. Perhaps he's also consulted with other stakeholders that are affected – i.e. the citizens of Alberta, the businesses of Alberta – and maybe they have suggested some of these changes. We'll hear when he comments, hon. chairman, what the rationale was that propelled these particular amendments.

Let me cut to the chase here, if I might, and deal specifically with some of them. I note that the first amendment that's presented deals with the issue of section 1(2), where we're actually just striking out a part of the original script and substituting something else. I'm taking it, hon. member, that that's basically a cleanup in terms of clarity and grammar where we're substituting words like "Parts of this Act" for words like "provisions of this Act." I think that that is just a straight grammatical change, but it does clarify it somewhat.

Subsequently, we also see that change about the statement that says "more regulations" being changed to "more provisions of the regulations." I think that's very cursory in its nature, so I have no problem with the first amendment. In fact, it reads better under the amendment, so I can support the first paragraph of the amendments that are being given because I think it does tighten up the act a little better. It could have been worded better, I'm sure the member would agree, and it could have been worded differently had there been a little bit more time for the people who actually did the writing of the bill to review it.

Nonetheless, as I go on to the next paragraph, which is titled B and refers to section 24(a) and refers specifically to page 20 of the act, this one I want to just spend a moment on, if I could. This particular part of the act deals with the cancellation of direct-sales contracts and time-share contracts. Now, I have said in this House before that I did have an experience with time-share contracts. [interjection] It's on page 20. This is what is called section 24(a)(ii), and it's the second amendment listed on the six pages of amendments that were presented, hon. chairman, just so that we're in concurrence. Have you flagged it? Yes? Okay.

We're dealing here with direct-sales contracts, as I mentioned, and time-share contracts. Now, I've had a good deal of experience with both of these cases, because while I was teaching and even after I finished teaching, I did venture into private business. I've been in private business most of my life, and I understand what it is to get involved in these types of contracts. I've also drafted a lot of contracts for different governments and for many different corporations and had my fair share of dealings with business plans and bank negotiations, so I'm very well versed in this particular area.

I'm happy to see that there was a change made in section 24, where consumer transactions are involved in contractual situations, that time-shares are actually going to be excluded in this particular section. I think it's important because it expands the coverage. It expands the coverage, and in turn it expands the protection for our basic consumers, who are in need of that kind of vigilance by the government. So I can support that change and say happily that it belongs there.

The next change that was made, Mr. Chairman, refers to specifically the addition of the auction area within 24(a)(ii), where we're going to add in the word "auction" after "market place"

and before the words “trade fair.” I think that's good, because there's a considerable amount of activity that happens in the auction world. Now, I'm not a professional auctioneer myself, but I have been called upon to auction at several events. In engaging in that process, while I do it as a volunteer, I do recognize that in the professional world I think it's important to have auctions covered here as well because, again, it is an extension of the coverage that is offered. So I welcome that particular change.

Now, as I look at section 59, which is the next amendment, I have a comment there to make with regards to the addition that is being popped in in section (b). I note that we're taking out “the cash price of a product purchased under the credit agreement,” and we're substituting “the cash price of a product purchased by the borrower from the credit grantor.” Now, that may need a little bit of clarification, because if you look a little earlier, you will see where the act actually does refer to other subsections, hon. chairman, to subsections (3) and (4) and (5), and then there are excepted sections. So this one I will ask the hon. member to clarify for us, because if you correlate the new change back to what has happened, you will see that there's a potential for some inconsistency there with respect to credit agreements as they apply to lessors and lessees and in particular to the lease agreements. I would ask the hon. member if he would please just clarify what exactly is intended there. I'm not suggesting that there's anything wrong with it at this stage, but it does need some clarification, to be sure.

9:00

Section 79 is being amended under the listing which is titled E on our sheet of amendments here, still on page 1. Section 79 is being amended to extend the period from “14 days” to “30 days.” I have no problem there. I think that anything to do with disclosure of information, if there's a little more time offered, hon. Chairman, I'm sure you will agree that the difference between 14 days and 30 days may not seem like a lot, but it would allow the individuals involved with these credit agreements that are referred to and the credit grantors – they would probably appreciate that extension of time. So I will certainly support that particular change. I don't think there's anything wrong with erring on the side of caution. The member need not explain that one to me. I think that's pretty straightforward.

However, in the next area, which is also still dealing with section 79, where we're talking about striking out “or total payments” and adding in “or total payments” after “cost of credit,” I think that one flows, and I can probably accept what is intended there in section 79 by way of that amendment in subsection (3). It's pretty straightforward that if there's a revision to the schedule of payments referred to, any supplementary disclosure statements that have to be made, they need not be disclosed, as the act says here, unless of course there's reason for that to be done. I would suspect that the member has checked into what some of those reasons might be. I could offer a litany of reasons why that might happen. As I say, I've probably dealt with a thousand or more of those kinds of credit arrangements and agreements in my time. I don't see anything wrong with that one. I would question, however, how it is that it escaped the writers, the authors of the document the first time around, because it's a commonsense one.

Now, the next sections that are amended here under F on the page that we have before us are really relevant to sections 106 and 107. I'm not sure about this one, hon. member. We're striking out quite a major chunk of your bill. You're substituting

something in place of it, I assume, but here I see that section 106 itself runs the extent of an entire page and a half almost, and then section 107 runs the equivalent of another page and a little bit, and all of that is struck out. We don't have any explanation as to why that's all struck out, but it does deal with the heart of regulatory boards.

I have a lot of concerns about regulatory boards primarily because of the way they come into being. The way they come into being in this act is basically by appointment through the minister. Is that not correct? I think that's what's intended. So I would like the hon. member to explain that to me, because providing for the creation of these regulatory boards is not just the act of creating the new boards but it's the powers that we give to those boards. If the powers that we give to those regulatory boards, including what it is that those powers encompass, the specifics, the details of what it is that they are charged with doing in relation to the larger aspect that we're discussing here, which is fair trading, which has to aim at consumer protectionism . . . And I would remind the hon. member, as well intentioned as he is and a member for whom, by the way, I have great respect – I want to add that, because I do have great respect for the Member for Bonnyville-Cold Lake. Il est un bon homme de Bonnyville. J'aime ça. I enjoy that repartie en français avec the hon. member.

[Mrs. Gordon in the chair]

But you have to be very, very vigilant here when we're setting about to give ministers powers to establish regulatory boards with wide-ranging powers of magnanimous proportions in some cases, and we're actually deleting the sum total of about three pages, Madam Chairman, in the act respecting conduct of business, respecting the affairs of business, respecting the appointments, respecting the approvals, respecting the very powers that govern in most cases, I think, small business here. Small business is heavily impacted, and I know the hon. member knows that. So I just mention that as a cautionary note.

Il y a beaucoup de bonnes choses ici, cher monsieur, dans cette loi, beaucoup de choses.

MS HALEY: Excuse me; I don't have a clue what you're saying.

MR. ZWOZDESKY: I'm sorry. I was just looking at the member, and we locked in French there.

Let me just say that in another language. There are a lot of good things in this bill, hon. member, as I have said. But there are also some areas where we have to be very careful.

We slip into these moments. I'm sorry. I apologize to those members who weren't following me there for a moment.

AN HON. MEMBER: Followed every word. Followed every word.

MR. ZWOZDESKY: Yes, and I know there are others who were following.

There are many powers here that deal with the provision of establishing regulatory boards, that are given extreme powers in many cases. We have to be very, very careful.

In fact, Madam Chairman, you will recall that relevant to the fair trading aspects of business in Alberta, I did have the great pleasure of presenting a bill or a motion – I just can't remember which it was now – to protect depositors, those people who put

deposits on everything from touring shows to ballet classes to modeling classes to house renovations. That ties in with this, and I did have the pleasure of putting that bill forward earlier this year. It hasn't yet come up for debate, hon. members, but I'm sure it will, and when it does, I want to be sure that the Fair Trading Act that we have before us applies equally well to them. I've discussed this, in fact, with the Minister of Municipal Affairs – at least, I've mentioned it to her – and I would think she's in support of that as well. In fact, I think, hon. minister, you even have something on the books as well – do you not? – with respect to fair trading practices as they relate to people who place deposits. I think the department does. I'm not trying to put anybody on the spot.

It's a serious problem. We have to remember that when you talk about those kinds of serious issues and you're putting in place a regulatory board that's going to monitor that plus other things, one must be extremely vigilant. So I applaud you having added after section 139 some changes to those regulations. I'm not sure if they should be vested entirely and exclusively in the powers of the minister, but I trust the hon. member has checked into that and that's his best way of doing it.

In that respect, Madam Chairman, as we look at these amendments that follow section 139 in the amendment package as presented, I do agree that there are some housekeeping items there. I can certainly support item 139.1(1)(a) and (b) and 139.1(2), where we talk about the conduct of business and affairs, because basically those are housekeeping ideas to do with the calling of meetings, to do with the appointment process, the functions, the powers, and the duties.

But in supporting that, hon. member, I just want to make it very clear that my own impression of that is to keep it as distant from government as we can. I would say that even if I were in power and in government. I just fundamentally believe seriously and strongly in keeping those items of business that we can aloof from political influence. I'm not going to say political interference because that wouldn't be fair. There are times when government has to make those appointments, and I respect that. I've been there. I've lived through it. I understand it extremely well, and some members here know that. I would caution you to make sure that we make absolutely certain that as a government we stay as removed from the process as we possibly can.

The minister should only be the recipient of those recommendations. The minister has the task of reviewing those recommendations and then endorsing something that has gone through a careful screening process. Then, at that point, the government makes a move and says, "Yes, I the minister approve these appointments" or "I approve these removals" or "I approve these extensions" or whatever. So in that instance, I support those particular amendments being added after section 139. The delegation of powers I've already spoken about.

Let me move on to the next part about regulatory boards and, specifically, Madam Chairman, the amendment that talks about boards and the powers they will have in relation to the duties and functions that are covered under this act. With any conditions that we may present to the regulatory boards in relation to any of the powers they might be exercising under the act, it goes without saying that the directors have the power to do whatever they deem might be appropriate. They even might have the right to make changes to their own bylaws. The way this particular aspect reads, I'm not sure if what's on the sheet under section L, 139.1(5), the directors . . .

THE DEPUTY CHAIRMAN: Hon member.

MR. ZWOZDESKY: I'm sorry?

THE DEPUTY CHAIRMAN: Your time is up.

MR. ZWOZDESKY: Oh, I'm sorry. I didn't hear the bell. The time is up? I'll come back later, hon. member, whenever I'm allowed.

Thank you, Madam Chairman.

[Motion on amendment A1 carried]

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

9:10

MR. DICKSON: Thanks. I have one further amendment, Madam Chairman. It's currently being distributed by the page. The reason for this amendment I think becomes even more significant in view of the last amendment package which just passed. This is one to comply with the Zander committee report. It would require that the regulations be referred to the Standing Committee on Law and Regulations. I apologize for the typos in the amendment. It was just done hurriedly, and my typing leaves a little bit to be desired.

The proposal, Madam Chairman, is this. This bill is somewhat unique. I think there are more different sections that allow regulations to be made in secret, away from this Assembly, and without any sort of public input than any other statute I can think of. In fact, if we look, these are the sections that provide for regulations: 12, 36, 41, 42, 51, 55(3), 101, 105, 120, 128, 139.1, 140, 144, 184. Those are all sections which allow for subordinate lawmaking, and each of those sections in many cases will have as many as eight or nine different parts.

I think it's absolutely important – for something as important as consumer and corporate affairs, the regulations are significant. They ought to be reviewed by the Standing Committee on Law and Regulations for three reasons. The review would be, firstly, to make sure that any regulation under any of those myriad sections I referred to would be consistent with a delegated authority provided for in the act to ensure that the regulations don't creep or encroach outside the scope of the bill; number two, to make sure that any regulation is necessarily incidental to the purpose of the act; and number three, to ensure that any regulation is reasonable in terms of efficiently achieving the objective of the act. I think those are fundamental propositions.

What would happen is that the regulation would have to be examined by the standing committee, on which the government has a vast majority. So the government still is in the driver's seat. All that government gives up by accepting this amendment is the fact that instead of doing it in secret, they have to do it in an open way. This is what the Zander committee, the all-party committee of the Legislative Assembly had recommended, and the government has chosen not to act on this recommendation in the past. They ought to do so now, and that's what we provide, that opportunity.

Those are the comments I wanted to make. For members who may have voted against a similar amendment in the past, I trust they understand that on Bill 20 there can't be any hesitation. There can't be any equivocation. It's essential we provide that kind of protection that we provide here.

Thank you very much, Madam Chairman.

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

DR. MASSEY: Thank you, Madam Chairman. Just a couple of comments on the amendment. This amendment tries to get at the regulations, and it seems that the government may be working at cross-purposes. We have the Member for Peace River, I believe, serving on a committee to examine the number of regulations in place with a view to eliminating them, and we have a piece of legislation in front of us that seems designed to increase the number of regulations dramatically.

I think the amendment is a good solution. It would have all regulations put in front of the Legislative Assembly Standing Committee on Law and Regulations. We have pleaded for at least five years that I'm aware of for that kind of automatic review of regulations to be carried out. So I urge members of the Assembly to support the amendment.

Thank you, Madam Chairman.

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Glenarry.

MR. BONNER: Thank you, Madam Chairman. I rise to speak to this amendment, and I would certainly like to compliment the Member for Calgary-Buffalo on these amendments, particularly when they make the effort to comply with the Zander committee report. This proposed amendment is a very good amendment, and it certainly will address the issue of more and more regulations being put into more and more bills.

As well, the other thing that this amendment will point out is the lack of public input into this particular bill. The reason I bring that up at this time is that without solicitation we were contacted by the Better Business Bureau and the Consumers' Association of Canada, and they have requested these changes to Bill 20. Their specific concern in regards to Bill 20 was that consumers did not get proper input into the regulations. With the amendments proposed by the hon. Member for Calgary-Buffalo, we will be able to make the regulations accountable to the Legislative Assembly. That is extremely important, because as it now stands, regulations can be made simply by the minister, and they're accountable to no one. So this would certainly strengthen this piece of legislation. It would make it a much better piece of legislation, and it would offer protection to many Albertans.

With this amendment, what would happen, of course, is that we would have the establishment of a standing committee, and the consumer would have the opportunity to make presentations to this committee. This would expand the base of those having input into the bill and into these regulations, and it would represent the opinion of many more Albertans. With this wider cross section the opportunity or the chance of slipping by is much less. So when it will increase the protection of the little Albertan, of the Alberta consumer who is in the marketplace every day, then we owe it to those people to have their input, to have their protection. The minister does have it in his power to establish a regulatory board, and it will give powers that govern small business the necessary requirements that all Albertans will be served much better.

As well, Madam Chairman, with the establishment of the standing committee of course people will be in a position, through the standing committee, to advise the minister that the regulation has been so examined, and they will note or indicate any matter referred to under the unfair practice for a supplier. So these messages that go to the minister will certainly alert him as to anything that might be involved under this Fair Trading Act that is not proper or right for the Alberta consumer.

With those comments, Madam Chairman, I would like to conclude my remarks on the amendment to Bill 20 as put forward by the hon. Member for Calgary-Buffalo, and I would urge all members of this Assembly to support this amendment.

Thank you very much.

9:20

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

MR. MacDONALD: Thank you, Madam Chairman. I have also a few brief comments regarding the amendment to Bill 20 that has been proposed by the hon. Member for Calgary-Buffalo. The Member from Bonnyville-Cold Lake should be applauded for this particular piece of legislation, Bill 20. These are his words:

It will send a clear message to unethical businesses that Alberta is not a place for them and that this government will not allow Albertans to be scammed with impunity.

The hon. member is very right with that comment, but this amendment, Madam Chairman, that is to be following after section 184 of Bill 20 will ensure that the citizens of this fine province are not scammed by government by regulation.

Thank you.

THE DEPUTY CHAIRMAN: The hon. Member for Bonnyville-Cold Lake.

MR. DUCHARME: Thank you, Madam Chairman. I'd like to speak to the amendment that's been brought forward by the Member from Calgary-Buffalo. I'd like to point out that this government has a policy of directing any proposed regulation which has policy implications to the appropriate standing policy committees, and as such, proposed regulations receive appropriate review. This policy works extremely well, and there is no reason that I can see to alter this process. Therefore I cannot support this amendment.

[Motion on amendment A2 lost]

[The clauses of Bill 20 as amended agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed? Carried.

Bill 30
Cemeteries and Funeral Services Statutes
Amendment Act, 1998

THE DEPUTY CHAIRMAN: The hon. Member for Calgary-Bow.

MRS. LAING: Thank you, Madam Chairman. I'd like to respond to some of the questions and concerns that were raised in second reading of Bill 30. One of the first ones was the question: was there a prohibition against pre-need cemeteries and prohibitions against telephone and door-to-door sales solicitation. Pre-need cemetery contracts are found in the proposed section 65.1 of the cemeteries act, page 29 of Bill 30 as printed.

There was a question about the process that led to the decision to not allow door-to-door and telephone solicitation, and I'd like to answer that. There was an Angus Reid poll which was done in November of 1997. It was conducted with random and representative samples of 800 adult Albertans from across the province between November 20 and 28 in 1997. Out of this sampling of 800, which was provincewide, you could say that there was 95 percent confidence that the results are within plus or minus 3.5 percentage points. Past year contact incidents with door-to-door and telephone sales among Albertans was modest, with just one-fifth of the November sampling claiming contacts with the targeted sales sectors. The ones who said that they had received calls about cemetery plot headstones was 17 percent and prepaid funerals was 16 percent, which means that altogether about 33 percent of the people had been contacted. When they were asked "Do you feel it is appropriate to sell these types of products by the phone?" only 10 percent said they didn't have a problem. So that means that 90 percent of the poll felt there was a problem. It went on to some of the other things.

There were also consultations with stakeholders. There were two discussion papers, and for the first discussion paper there were 28 stakeholders who replied, including the cities of Lethbridge, Medicine Hat, Red Deer, Calgary, the Edmonton Catholic cemetery, city of Edmonton, and so on, including some of the major stakeholders such as Arbor Memorial Services and the Consumers' Association of Canada. I can certainly show this list later if you like. There were 19 in discussion paper number 2, and again many of the cities and the Independent Funeral Directors Association, Memories Funeral Directors & Crematorium, and so on. So a large number of stakeholders was consulted.

From those stakeholders the cities of Edmonton, Red Deer, and Calgary said no to direct sales on the telephone, as did the Alberta Funeral Service Association. It was mainly the large funeral service companies that have international links that supported having telephone solicitations. Most of the small local funeral service companies did not support it. They were concerned about the intrusiveness of telephone sales.

The mail. I think I answered that before. During the stakeholder consultations the department was informed that people find telephone and door-to-door solicitations are the most intrusive, and it's easier for consumers to throw mail into the garbage than to hang up the phone on a caller.

There was a question about memorial gardens. They are allowed in Alberta. Memorial gardens are commonly created in cemeteries as well as parklike settings beside churches.

Except for national parks, ashes from cremations can be scattered anywhere in Alberta with the consent of the landowner. I have one other little piece I can read to you. In national parks such as Banff and Jasper scattering of cremated remains in water is prohibited; however, you may cast them to the wind without obtaining permission. Even so, it's worth while to obtain permission in the event that you're ever challenged by a member of the public or a parks official.

Some municipal parks allow the practice; however, you do require permission. Additionally, there are restrictions as to time and location within the parks, and this also applies to municipally owned golf courses and cemeteries. In provincial parks, forests, wilderness, and natural areas, there is no requirement to obtain permission to scatter cremated remains, but again it's a good idea to obtain permission to avoid misunderstandings.

Scattering of cremated remains in rivers and lakes, excluding

Banff and Jasper, is apparently permissible. Justice and Alberta Environmental Protection advise that charges could be brought in such cases; however, this is very unlikely.

So the main tenet is to ask permission and to make sure you're doing it in a proper place.

The regulation being made by the minister. I think we've gone over the Law and Regulations Committee of the Legislative Assembly several times. It's my understanding that this is a very serious matter that would be referred to this committee and that that's one of the reasons it hasn't sat.

The regulation is developed in consultation with representatives from all the affected stakeholders and is carefully reviewed by the Regulatory Reform Task Force before it can be filed and is effected. Any further review would be ineffective and result in implementation delays. Again, it would be with the stakeholders, and as I indicated, there is a long list of stakeholders which have been consulted on all these things, and certainly they would be consulted on the regulations.

There was also the question about the amount of money that goes into a fund and why it was being moved into regulations. Commercial for-profit cemetery owners, of which there are only two in Alberta, are required to maintain a perpetual care fund consisting of a minimum amount that's set by regulations. The regulation sets out the minimum amount to be placed in trust when the cemetery is first established, and a percentage of the sale from each plot, niche, or crypt is also placed in the care fund. The amount is set by regulation rather than the act to allow flexibility and allow for changes resulting from increased maintenance costs or inflation. For example, the current amount of \$15,000, which is set in the act, is too low for a present-day 20-acre cemetery site. Municipal and religious cemetery owners are exempt from having to establish a perpetual care fund, although the department does encourage them to. So they are exempt from this.

9:30

The last couple of things here to go. One was about the administration fee, and could it be taken out of people's bank accounts was the concern. This is a onetime fee that would be paid to the seller of the pre-need contract to offset the costs of maintaining the pre-need contract. The seller must elect to either charge the administration fee at the beginning of the contract or after the cancellation period has expired or at the end of the contract, when it is canceled by the consumer or the services have been provided. So much like the mutual funds: you either pay your fee at the beginning or at the end of the contract. The reason the minister sets the fee is that this amount will be established after consultation with the stakeholders. They have the expertise. They deal in it every day, so it's fair that you would ask them.

We were asked about the appeal boards. What was the basis they would be set on? They are set up on an ad hoc basis, so it's just as they are needed.

A clarification of the appeal board for the license issue and why such a wide-open range of possible regulatory boards can be appointed to act as the regulatory board in this case. The Cemeteries Act being delegated to the Alberta Funeral Services Regulatory Board: this is what the question was about. At this time there is no intention to do this. The intent of including the provision for a regulatory board in the legislation is to allow this to occur at some future time if the industry supports such a move. One option would be the creation of a separate regulatory board dealing solely with cemetery issues. One small area of the act which could be delegated to the existing funeral board, although

there's no decision being made yet, is the licensing of the cemeteries. The majority of the cemeteries in the province are owned by funeral homes who are licensed under the Alberta Funeral Services Regulatory Board.

I hope that answers the major questions that have been raised at this point. Thank you.

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Glengarry.

MR. BONNER: Thank you very much, Madam Chairman. I have a few comments I'd like to make to Bill 30. Again I must compliment the Member for Calgary-Bow for her thoroughness in her work in regards to this particular bill and the tremendous amount of work that she has done.

Somehow in all the consultation with stakeholders either some people did not realize the importance of this bill or the ramifications down the road. Since we first discussed the bill here in the Legislature, we have had calls, particularly from Arbor Memorial Services Inc. They have their head office in Toronto, Ontario, Madam Chairman, and here in Alberta they operate as Memorial Gardens Association (Alberta) Limited. It is one of the largest funeral companies in Canada. They own and operate 83 funeral homes, 44 cemeteries, and 23 crematories here in Canada. Their Alberta operation includes five funeral homes, six cemeteries, and two crematories.

When they phoned me, they expressed some concerns that they have with this particular bill. One of their concerns was this: 85 percent of their business is in direct home sales. In other words, they're cold calling when it comes to getting clients. They're doing direct sales door-to-door, whatever. This is 85 percent of their business.

The next issue that they brought up with me is that the whole business, whether it be funerals, cemeteries, whatever, is probably the most regulated business in the world, bar none, and so it should be. There is absolutely no time in our lives when we are more vulnerable and more sensitive than when there is the death of a loved one in a family. We certainly are not finding fault with the fact that this is a very, very regulated business. We fully agree that it should be, and this is why we do support the tremendous amount of research that has gone into this particular bill.

I don't know why some parties and some people in the survey replied so strongly that they were not in favour of direct sales. It would seem to me that it would be much more reasonable to receive a call when you're in your own home. You're certainly in a much better frame of mind for dealing with these calls than you are at the time of death. At the time of death, whether it be for a parent, an uncle, an aunt, a child, whatever – anybody that has experienced it realizes that at that particular time all you want is the very best for that person. There are many reasons for this, whether it be guilt or whether it be love for that particular person or whatever. It is a horrible, emotional process at that time. So certainly when we compare the cold call to trying to deal with these matters at the time of death, there should be no comparison between the two.

Now, as well, what's happened in here, Madam Chairman, is that the cooling-off period for agreeing to something like this has been extended from 10 days to 30. We feel that that is an adequate time, particularly for our seniors who are more vulnerable and who are probably thinking about this aspect of their future more than others. It gives them the time to consult with friends,

to consult with family, whatever. So I don't think we have to fear the cold sales as much with this particular group as what people may think.

Of course this is one of those issues, Madam Chairman, that most people do not want to discuss and many of us don't want to face. One of the strengths of a pre-need funeral arrangement is that it allows a person to arrange their own funeral and certainly does not place a vulnerable family in a compromising position when they have to go to that funeral home. Many times this occurs within hours of death, and most people are not in a position to make the wise choice that they would normally make, and we are vulnerable. So they certainly made a very strong point that there definitely is a place for pre-need funeral arrangements in this province.

The other thing as well that I brought up earlier was that particularly at the time of death we all are inflicted with a certain degree of guilt whether justified or not, and we also know that at the time the families go into the funeral home to discuss these arrangements, even in the case of pre-need arrangements, 95 percent of these people upgrade their funeral arrangements that their loved one has made before them.

The other comment that was made by these people to myself was: why would we try to eliminate the cold calls, the direct-contact sales, when it comes to pre-need funerals, yet something in the way of a tombstone we would not limit?

9:40

This is another case where I do feel very uncomfortable with this particular section of Bill 30. It seems that we are picking and choosing who can do business and how they can do business here in the province. I do respect the fact that in our smaller communities these people struggle to survive. They struggle to maintain business to these small communities. Yet in no other business in this province do we limit one party from doing this type of business. I like the fact that we are trying to provide a great deal of protection for the consumer here in Alberta and particularly the older consumer, but there are safety mechanisms built into this bill which will allow them to certainly re-examine and change their minds if they do not feel this is proper.

Now, another issue that I think has to be addressed that is much more important when it comes to pre-need and cold calls and direct sales is the issue of: how do these people get that information on people? How do they get into seniors' homes so they can make these cold calls? Of course, that is the marketplace that they wish to direct. It's no secret that in most cases these people are certainly closer to the end than others, so definitely they will see the returns on their calls and whatever earlier. These are also the people who are more than likely, Madam Chairman, to be thinking along the lines of what they're going to require in the near future. Therefore, how do these people who are in the pre-need business get information? How do they get into these seniors' homes? How do they get their phone numbers? How do they get this access to their personal information?

It leads us to even a greater concern, and that is the privacy protection that we have for personal information, particularly when we look at the importance of health information when it comes to this particular field. We don't want anybody to have a wide-open range when it comes to obtaining personal information on anybody. It certainly is one of those issues that we all have to look at and look at very closely.

The next area that I have to look at here is particularly the area of business: again when we choose in business how people can do their business, when we start to put restrictions on some members

in a business community, but we don't have the same restrictions on others. If these are legal businesses here in the province and they are not breaking any laws, then why do we restrict? At all times we also must keep in mind that we want protection for the consumer here in Alberta.

So, Madam Chairman, with those comments I would like to conclude my remarks in regards to Bill 30. I would certainly urge people to take another look at the issue in this bill where we are directing very stringent restrictions on the pre-need funeral businesses in this business: how we are stopping them from making cold calls, how we are stopping them from doing home sales. Like so many other things in our lives sometimes we do need that push. Sometimes we do need that little kick to get us involved in things that are very important to us, things that all of us should have, things that will eliminate much grief for our families down the road. So I would urge all members to take a look at this particular section.

With those comments, Madam Chairman, I will close my remarks on Bill 30. Thank you.

THE DEPUTY CHAIRMAN: Are you ready for the question?

MR. DICKSON: I have lots of questions, though, that hopefully we'll get some clarification on.

I just want to follow up on the comments that my colleague for Edmonton-Glengarry had been making relative to the new section 65.1. It would be on page 29. I think all members are concerned about vulnerable people being taken advantage of by a sales organization, but it's not limited only to somebody trying to sell a cemetery plot or a gravestone or something like that. I think I share the sense that it's tough to legislate sensitivity, that it's tough to legislate good manners, that it's tough to legislate tact. I understand that nobody for a moment would want to see a vulnerable senior – my parents are in their early 80s – people in that sort of situation, people who may already be in considerable distress, taken advantage of.

But I have to wonder. If it's important to do it in terms of selling a burial plot, it's also important in a whole lot of other areas; isn't it? I mean, it's not just in this area that seniors are vulnerable. We've heard of situations, everything from people being sold house siding and house renovation to a host of other things. So I guess my comment would be that if we want to address protection of seniors and vulnerable people, why do we limit it only to the selling of plots or prearranged funerals and "cemetery supplies," in the wording of this section.

I agree with my colleague from Edmonton-Glengarry. I think an even bigger issue is people who access health records and hospital records and use that to then start phoning somebody who has just recently lost a family member or where there's been that sort of a serious situation or a serious operation. I expect members may have also had constituents who approached them with evidence that personal information has been misused in that way. So I think my point would be, at least with that amendment on page 29, that it makes sense to protect vulnerable people. My point is just that we should be looking at protecting vulnerable people not only when it comes to selling cemetery supplies . . .

MR. SHARIFF: A point of order.

THE DEPUTY CHAIRMAN: The hon. Member for Calgary-McCall.

Point of Order Committee of the Whole Debate

MR. SHARIFF: Under *Beauchesne*. I don't know the exact citation. But I see a lot of seniors up there who have been sitting here for the last two hours. Just maybe as a matter of courtesy, Madam Chairman, if you could explain the process that's happening so they would understand why Bill 24 has not arrived at the discussion stage.

THE DEPUTY CHAIRMAN: I will do that. For the information of the people in the gallery we are in committee stage. At this stage of the bill amendments are allowed to be brought in, debated, and discussed, and the bill can be looked at section by section. What happens here is that we do have a list of bills that are up for debate tonight, and each and every person in this Assembly is allowed up to 20 minutes and can go back and debate the same bill again. So in chairing this particular Committee of the Whole, I have to wait until all of the speakers have finished speaking in order to go through and ask for the bill to be voted on. So this is what we're doing, and Bill 24 is the next bill up after Bill 30. I hope that explains to you. I notice that some of you are leaving.

Point of Order Decorum

MR. BONNER: Madam Chairman, another point while we're on this. If the hon. member wishes to speak to *Beauchesne*, should he not be in his seat? Thank you.

THE DEPUTY CHAIRMAN: Yes, a very good point. He should be in his seat. You can certainly tell it is 9:50.

Go ahead, Calgary-Buffalo.

9:50 Debate Continued

MR. DICKSON: Thanks, Madam Chairman. I might just add that I appreciate the concern for people waiting in the gallery. They should also be advised that Bill 24 will be coming back. It's not going to be disposed of at committee stage, I understand, this evening in any event. It's going to be coming back on Monday. The Minister of Health is reviewing some amendments that have come forward from the Liberal opposition, and hopefully some of those amendments may be favourably considered by the government caucus. So there may be some positive news.

Chairman's Ruling Relevance

THE DEPUTY CHAIRMAN: Thank you very much. We are debating, and you do have the floor on Bill 30, which is the Cemeteries and Funeral Services Statutes Amendment Act.

MR. DICKSON: Madam Chairman, of course. [interjections] Okay. I simply want to ensure that the rules are applied equally on both sides.

Debate Continued

MR. DICKSON: Madam Chairman, the concern I was expressing related to cemetery supplies and the fashion in which it's treated in this bill and the fact it is only in that particular case. That gives me concern.

I also have some questions with respect to the new section 65.2, the unfair practices provision, which appears on page 30. It

seems to me again here that we already have a set of rules, a set of laws that deals with unfair practices in a broader context. If there's a sense that the protection that exists now for vulnerable people such as seniors and people who may be grieving and particularly vulnerable to pressure, if the existing legislation is felt not to be adequate to the task, then why wouldn't we be addressing it in a broader range rather than simply for the one product?

Now, the other concern I had, Madam Chairman. On pages 20 and 22 we have a regulatory board, and what we've got here effectively is the kind of delegated administrative agency that was the issue, what the government attempted to do in the fall of 1994 in a general sense. That bill was withdrawn by the government. What's happened is that the government has come back, and they're doing it sector by sector. So those provisions between pages 20 and 23 are problematic because what you're doing is creating a regulatory board which then can turn around – and that's done by way of regulation – and create a whole number of bylaws. So what you have again is undermining the supremacy of the Assembly, and that's certainly a problem.

If we look at section 18, the other item is again the regulatory board which is referenced at pages 50, 51, 52, 53. You have once again what, I'd suggest, is an excessive delegation of regulatory power, which is problematic. You've got a regulatory board that may create a fund. This is similar to another bill we've seen earlier tonight, and I think it's a concern. The powers of the minister, the regulations section, section 23, is vast. In fact, it goes on for three pages detailing powers that the minister has in terms of making regulations, and there's no provision for oversight of those regulations. So that continues to be a concern as well.

The first concern I raised hopefully will be addressed when the Health Information Protection Act is finally passed. I guess I want to encourage the government to be concerned about vulnerable people, not just in this very narrow area of service but in fact in a much broader range of service. It seems to me that the bill is too narrow in that respect. That would be an item I expect to be addressed in other legislation, not in the bill we have in front of us. So those are observations I wanted to make, Madam Chairman.

Thanks very much.

THE DEPUTY CHAIRMAN: Edmonton-Manning.

MR. GIBBONS: Thank you, Madam Chairman. I just want to make a few notes and say a few comments. I'm standing to speak on Bill 30, the Cemeteries and Funeral Services Statutes Amendment Act. I'd like to commend the hon. Member for Calgary-Bow for all the work she's done to bring this forward. This is one bill where it makes a lot of sense to have the two acts brought together, the Cemeteries Act and the Prearranged Funeral Services Act.

What is apparent to me, as I've been reading through this bill, is that neither the Cemeteries Act nor the Prearranged Funeral Services Act has been updated for 40 years. It seems like this is one thing that is a daily item in our lives that we should be looking at, and I'm glad it's being brought forward. What we can see is that the industry is rapidly changing and the industry is evolving year by year. There has been an increase in funerals in Alberta over the last few years, and with our population change and so on this has actually been good timing for this particular bill.

As we search through the bill, we notice the number of Alberta-

owned funeral homes versus the multinational, with the multinational becoming more prevalent in Alberta. It is something where we have to spell out what actually happens. Madam Chairman, I don't want to belabour this, but these statistics really show where we are and how Alberta has actually transpired over the last number of years. An example of this in the industry is the multinational coming in from Houston, Texas, which is the largest funeral home and cemetery operator in the world. Its operation has 22 funeral homes in Alberta alone and three crematoria. Then we have Loewen Group Inc. out of Burnaby, B.C. The other one is Arbor Memorial Services Inc., with its head office out of Toronto. These are things we should be stressing to Albertans: what's actually happening in the industry and how it is actually being updated to a point.

Now, the use of current language in this bill: "endowment care" versus "perpetual care." This addresses whether cemeteries which buy back cemetery plots pay their current fee or the original fee. I look at what has actually happened in my hometown, where my father as a volunteer looked after the cemetery, and at what it was actually worth then when the plots were bought for the family and what you'd have to pay for them other places. In this existing bill it isn't clear whether the cemeteries which buy back the plots should pay the actual market price for the plots or the price that the consumer paid at the time the plot was purchased. There are enough differences between the two acts to keep them separate on this particular item.

10:00

The major changes in the act, from what I can see, are the common amendments being introduced in both acts, including to prohibit or restrict the direct sales of prearranged funeral services either by telephone or door to door. Now, I do not like people phoning me, and if we're ever out of this particular House and sitting at home, no doubt we'd be accosted by telephone soliciting calls coming in. At the same time, do we decide through an act like this that we do not allow phone soliciting by this one but we'll let other ones go through? I don't know if this is too liberal, but at the same time the point is: where do we stop this actually happening? I do not like these phone calls, but it's actually: where do we really get off on stopping all phone calls or whatever?

The delegation and administration in complaints handling functions. This has been addressed to the Alberta Funeral Services Regulatory Board, with a composition of three members selected by the minister and three members selected by the industry. This is one way we can see that there is harmonization in this act. It allows a cooling-off period in particular cases, normally 10 days, but for older people it will allow up to 30 days, which will allow, for example, time for consultation with the family; that is, in a case when they should be called. If you have a poor track record in the actual sales end of it, could people take courses when violations occur? Now, this is one case where maybe the companies can be fined for the violations that have actually been brought forward.

I'm going to take my leave, Madam Chairman, and see whether or not anybody else would like to speak to this. In its entirety, I'm quite for this bill except for the fact of the telephone soliciting.

Thank you very much.

[The clauses of Bill 30 agreed to]

[Title and preamble agreed to]

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

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed? Carried.

Bill 24
Medical Profession Amendment Act, 1998

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

MR. DICKSON: Thanks very much, Madam Chairman. When we last dealt with this, I had distributed I think four amendments to members. One of the amendments had been distributed and had been defeated. That was the one that would have had any regulations, particularly under the PAR program, referred to the Standing Committee on Law and Regulations. The purpose is to ensure there'd be some all-party oversight to ensure that the college was not using the act in a way that was not intended; in other words, to ensure that the act was . . .

THE DEPUTY CHAIRMAN: Hon. member, the amendments were certainly introduced or proposed the last time this was before committee; correct? Which amendment are you dealing with?

MR. DICKSON: I'm making a general observation now, Madam Chairman. I haven't . . .

THE DEPUTY CHAIRMAN: But we have an amendment that has been proposed.

MR. DICKSON: Well, with respect, Madam Chairman, we had an amendment that was introduced, debated, and defeated. There were two other . . .

THE DEPUTY CHAIRMAN: I'm just asking for clarification. Are you bringing forward further amendments or just discussing the bill in the committee stage? We have had one that was defeated, yes.

MR. DICKSON: Madam Chairman, I'm simply speaking at the committee stage to a bill. I'm not moving an amendment. As soon as we're ready to do that, I'll indicate that that's specifically what we're doing.

THE DEPUTY CHAIRMAN: We were just seeking clarification.

MR. DICKSON: Right. I appreciate that, Madam Chairman. The point I was attempting to make is this. The Minister of Health has reviewed a series of amendments that I had drafted on behalf of my caucus. The attempt was to ensure that this bill, Bill 24, does not do what the Citizens for Choice in Health Care and other concerned Albertans apprehend. The minister – and I thank him for this – has looked at those amendments. There are a couple of them that he has considered but wanted some additional time to consider. I understand there'll be some further involvement of his caucus, and I want to afford the minister the time to be able to deal with those further amendments.

That's the reason why I'm suggesting, rather than pressing ahead and voting on these things, that if there's an opportunity to be able to revise them, if that's necessary, in a fashion that's

acceptable to the Minister of Health and hopefully get the majority of support in the House, that's what I'm particularly keen on doing. I'm trying to reflect the discussions that I've had with the Minister of Health, and that's the reason I'm not rushing forward to move those amendments. I wanted to make sure that the minister had the opportunity to consider them and that we'd be able to debate them. There may be other members who have other amendments, but I'm interested in trying to change the bill, not simply going through the motions of making a bunch of speeches and making amendments that have no prospect of passing. I'd be happy to sit down and give the minister an opportunity to address it if he has a different understanding of what's afoot or what's under way.

The concerns, Madam Chairman, I'd just say are this. On the one hand, I think the college has got a legitimate interest in terms of trying to ensure that medical professionals provide the highest possible level of service, but members of my caucus I think join with me in wanting to make sure that there are some limitations, some changes in Bill 24 so it cannot be used as some kind of blunt instrument to unfairly or prejudicially affect those physicians who practise alternative medicine, as it's colloquially known. So, as I say, I'll sit down and give the Minister of Health a chance to offer his perspective on what's going on at this stage.

Thank you.

THE DEPUTY CHAIRMAN: The hon. Minister of Health.

MR. JONSON: Thank you, Madam Chairman. Yes, the Member for Calgary-Buffalo has reflected I think accurately discussions that we've had. There are two amendments. One is an amendment to section 1.1, which is before you, and it states that a review under subsection (1) shall not be conducted more than once every five years unless there is just cause to do so. As I recall the wording of the bill that is before you, the last part of that particular amendment says at least every five years. I think this particular phrase being added here clarifies the basis on which a more frequent review might be done. I understand that it is acceptable to the College of Physicians and Surgeons and provides a certain caution or a clarity of understanding as to when there might be any review more often than five years contemplated. So that one, Madam Chairman, is an amendment which I would find acceptable and would recommend to the Assembly.

10:10

The other amendment that is being proposed deals with the idea of there being a review of the act every three years. Now, that is not acceptable. It would not be something that I would recommend to the Assembly. As I understand the amendment, having discussions with the Member for Calgary-Buffalo, it is really the issue of reviewing the success or lack thereof of the PAR program.

Chairman's Ruling
Amendments Not Moved

THE DEPUTY CHAIRMAN: Hon. minister, if I may, no amendments have been moved to this point in time. What I was asking clarification for – and the table officers and I have been talking about it – was that the amendments identified by Calgary-Buffalo that you're speaking to were distributed to members on March 25. I'm sure nobody here has copies of those amendments still on their desks, and they have not been moved by the hon. member. Just so people know that when we're talking about the amendments, they have not been moved.

Debate Continued

MR. JONSON: Madam Chairman, I will get to the point then, and that is that I just wanted to validate the fact that I've indicated to the Member for Calgary-Buffalo that I would like to have some time to review the amendments. Given that that is the case and I think it may lead to a modest improvement to the bill, I would move that we adjourn debate on Bill 24.

THE DEPUTY CHAIRMAN: Does the committee agree with the motion to adjourn debate?

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed? Carried.

MRS. BLACK: Madam Chairman, I move that the committee now rise and report and that progress be reported on Bill 24.

[Motion carried]

[Mr. Shariff in the chair]

MRS. GORDON: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports Bill 30. The committee reports Bill 20 with some amendments. The committee reports progress on Bill 24. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

THE ACTING SPEAKER: Does the Assembly concur in the report.

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? Carried.

[At 10:17 p.m. the Assembly adjourned to Thursday at 1:30 p.m.]

