Legislative Assembly of Alberta

Title: Wednesday, April 8, 1998 8:00 p.m.
Date: 98/04/08

head: **Private Bills**
head: Committee of the Whole

[Mrs. Gordon in the chair]

THE DEPUTY CHAIRMAN: I'm calling the committee to order. Would everyone please take their seats.

Bill Pr. 3
Alberta Wheat Pool Amendment Act, 1998

THE DEPUTY CHAIRMAN: The hon. Member for Little Bow.

MR. McFARLAND: Thank you, Madam Chairman. I would like to move that Bill Pr. 3 – and I believe everyone's received the circulated amendment, which was supported in Private Bills Committee – be amended as follows: Section 2 is amended in the proposed section 40.1(8) by striking out "The Lieutenant Governor in Council" and substituting "If authorized by a resolution passed by at least 3/5 of the delegates, the Lieutenant Governor in Council." I'd like the question called.

[Motion on amendment carried]

[The clauses of Bill Pr. 3 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.

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

Bill 25
Justice Statutes Amendment Act, 1998

THE DEPUTY CHAIRMAN: The hon. Minister of Justice.

MR. HAVELOCK: Yes. Thank you, Madam Chairman. I believe all members of the House have had two documents distributed to them. One is the proposed amendments. The other one is an explanation regarding those amendments. These changes are the result of some extensive consultation with the judiciary regarding the terms of the bill. The judiciary has signed off on these changes. From what I understand, they're satisfied with them at this stage. So although there are only of course 24, which is slightly less than the number of clauses in the bill . . . [interjections] Yes. That's right. I'm trying to top past performance.

Madam Chairman, a lot of these changes are actually consequential to some of the fundamental issues that we addressed with the judiciary, which is why there seem to be quite a few.

How would you like to proceed? What I will do, Madam Chairman, if it's okay – should I just start at A and go through these, and we can vote on them as we go?

THE DEPUTY CHAIRMAN: Yes, and we will deem this whole document A1.

MR. HAVELOCK: The whole document A1? [interjections] Well, if the document is A1, how will we then vote on it, Madam Chairman? Just on the whole thing?

THE DEPUTY CHAIRMAN: Well, Minister of Justice, this will be up to you. You presented us with the entire document at once. Is your intention to present this as one amendment in total?

MR. HAVELOCK: Yeah. I guess the only concern I have, Madam Chairman, is that the opposition may wish to comment on some of these, and I'd hate to . . . Is that okay? Just all at once? Okay. Why don't we deal with it as just one document? Then I can comment.

THE DEPUTY CHAIRMAN: You have presented it to the committee as one document.

MR. HAVELOCK: Madam Chairman, will you give me one second?

THE DEPUTY CHAIRMAN: On a point of clarification, the hon. Member for Edmonton-Glenora.

MR. SAPERS: Whatever it is that you want, Madam Chairman, through you to the Government House Leader and Minister of Justice and Attorney General for the province of Alberta. We could probably move these one at a time with comment from the mover. I think that would be the most expedient way to do it, and then if there was one of these that looked like it was presenting a difficulty, we would be able to zero in on those one or two amendments.

THE DEPUTY CHAIRMAN: Hon. Minister of Justice, the chair certainly will leave it up to you as to how you want to do this.

MR. HAVELOCK: Well, thank you, Madam Chairman. Then let's deal with this as one amendment, and I will simply go through and explain them. If questions come up, I'll try and answer them. Is that fine?

All right. The first amendment is consequential. What it relates to is that Bill 25 at the present time provides that the code of conduct and conflict of interest guidelines for masters are to be prescribed by the Lieutenant Governor in Council, and those for justices of the peace are to be prescribed by the minister.

What we are attempting to do is have issues relating to the code of conduct and conflict established by Judicial Council for masters. However, of course, the Lieutenant Governor is retaining the right with respect to remuneration and benefits to be paid to masters in chambers.

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

MR. DICKSON: Thanks very much, Madam Chairman. I've got a number of questions, and just because this may not otherwise be apparent in *Hansard*, we should identify that there is the packet of amendments, which is a 10-page document, and then the Minister of Justice has kindly provided us with a 14-page document which is a form of concordance between the original Bill 25 and

proposed House amendments and a marginal note in terms of comments.

There are a host of issues raised in the original Bill 25, and I saw the 14-page summary document only moments ago. When a bill is introduced at first reading, we have at least 24 hours before we get into debate on the bill. The Minister of Justice said that the judiciary has signed off. What I'd like to specifically ask the minister: has he got written confirmation from the Chief Justice of the Court of Appeal or her counsel, from the Chief Justice of the Court of Queen's Bench or his counsel, from the Chief Provincial Court Judge that each of those three levels of the judiciary no longer has any issues with Bill 25?

THE DEPUTY CHAIRMAN: Excuse me, Calgary-Buffalo. I'm sorry, but we can't have two people standing at the same time. Calgary-Buffalo has the floor. Minister of Justice, have you got a point of order?

MR. HAVELOCK: I was just stretching.

THE DEPUTY CHAIRMAN: Go ahead, Calgary-Buffalo.

MR. DICKSON: Madam Chairman, I'm confident we're going to give the Minister of Justice lots of opportunity to stretch this evening.

What I was hoping – and I'm happy to take my seat. Before we get into dealing with the merits of the amendments, I wanted to ask the Minister of Justice to indicate what specifically he means when he says that the judiciary has signed off? The last call I had was from a solicitor who had been requested to spend some time reviewing these things. I know there have been two meetings in Calgary involving members of the judiciary and their counsel. I guess I'd like to know: when he says that the judiciary has signed off, what form has that taken? Since we're dealing with three levels of court, it would be very helpful if he'd indicate what representations he's received – and he can share it with the House on the record – from each of those three levels.

Thanks, Madam Chairman.

THE DEPUTY CHAIRMAN: The hon. Minister of Justice.

MR. HAVELOCK: Yes, Madam Chairman. I received verbal confirmation from my assistant deputy minister who deals with the courts, Mr. Rod Wachowich, that these had been run past the judiciary and they had agreed to them. There was one issue that is not dealt with in these amendments, and that is term appointments for justices of the peace. They felt that there should not be a term appointment, but that is not a change that we are making. My understanding from the ADM is that the judiciary had accepted these changes.

MR. DICKSON: Madam Chairman, I take it, though the minister didn't say, that you're talking about all three levels of judiciary in the province.

8:10

MR. HAVELOCK: Yes, Madam Chairman. The ADM did not indicate to me that one level of the judiciary had expressed any further concerns with respect to these changes. That unfortunately is the best I can give you.

MR. DICKSON: In addition to having the three levels of judiciary, we have two other types of quasi judges, and I'm thinking specifically of the masters in chambers. We have a number operating out of the Calgary and Edmonton judicial districts, and then we have a range of justices of the peace. So I'd go further and ask if the Minister of Justice would be able to confirm what representation he's able to make with respect to the masters in chambers and justices of the peace.

MR. HAVELOCK: Madam Chairman, we dealt with the three chiefs. We dealt with the Chief Justice of the province of Alberta, Catherine Fraser. We dealt with the Chief Justice of the Court of Queen's Bench, Mr. Ken Moore. We dealt with Chief Judge Ed Wachowich. The masters, for example, if I'm not mistaken, I believe fall within the jurisdiction of the Court of Queen's Bench, and I believe the Chief Judge can speak on their behalf. Again, if I'm not mistaken, I believe that the Chief Judge would be able to speak on behalf of JPs. So we did not seek, from what I understand, input specifically from those two bodies because we were dealing with the chief justices and/or Chief Judge.

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

MR. DICKSON: Madam Chairman, thanks very much. The reason I ask is that Bill 25, in fact, has established some cleavage between masters in chambers and justices of the Court of Queen's Bench. I haven't had time to look at the amendments, but if you look at Bill 25, we're talking about in fact a separate judicial council for masters in chambers. If I'm misreading it, the minister can indicate that that's the case. For purposes of the bill, in fact we have broken them out. I take it as implicit in what the Minister of Justice says that he hasn't received separate representation from or on behalf of the masters in chambers. [interjection] I understood the Minister of Justice to say that he talked to Court of Queen's Bench justices and he took that masters were lumped in and had been part of that consultation. That's not the same thing as what I'm asking, Mr. Minister.

MR. HAVELOCK: Well, Madam Chairman, department officials met and/or discussed the amendments with the three levels of court. That's all I can offer at this stage. I can also offer that at this stage I understand that these changes are acceptable to the three levels of court. Whether the ADM spoke specifically with the masters in chambers' union, if there is one, or someone specifically representing the masters, I can't tell you that.

MR. DICKSON: My other general question, Madam Chairman, is this. What I still am puzzled by with respect to the bill is – and the comment has been made to me by a number of benchers. Since the Minister of Justice appointed the task force to review the appointment process for Provincial Court judges, since the Minister of Justice announced the Justice Summit, the comment that's been made by members of the judiciary and members of the bar is: why would we be undertaking all of this detailed change now? Most of this in fact can be deferred for input in a broader kind of consultation. I thought that's what the Minister of Justice had been attempting to do.

In effect, by bringing this in, for those of us who wanted to see the Canadian Bar Association recommendations accepted, which were for screening judicial appointments on the basis of excellence, not on a much lower standard, it looks like that argument is going to be concluded. It's a little tough, then, to have the task

force to review the appointment process for Provincial Court judges when we have a process that the minister has already embarked on just on the eve of these two broader consultations. What it does is it pre-empts a much broader discussion that would take place in those consultations.

Perhaps the minister would explain why he'd embark on this kind of codification of one process in a way which effectively if not precludes at least makes far more difficult the adoption of a more radical kind of change. I thought the minister had initially started off as Minister of Justice wanting to radically change our judicial system. It looks to me he's already decided on a particular model. This doesn't take the best elements of reports that have been made over the last 10, 12 years by the Canadian Bar Association, and I'm hopeful we can get some explanation from the minister in terms of why that is, Madam Chairman.

MR. HAVELOCK: Madam Chairman, there's actually a simple explanation. We are required to implement changes pursuant to the Wickman decision, which the Supreme Court issued some time ago, by December 18 of this year. In fact I can tell you that the committee which the hon. Member for Calgary-Lougheed is co-chairing with Chief Judge Ed Wachowich – I don't expect their report until perhaps May or June. Also, it may well be that this will be the only session this year. There may or may not be a fall session. Therefore, we had to bring these changes in at this stage because we may not have another opportunity to comply with the Supreme Court ruling. It is in no way pre-empting or trying to dissuade those within the legal profession and the judiciary that we'd like to see some radical change. However, we're faced with the Wickman decision and some practicalities as to when the changes could be made.

MR. DICKSON: Madam Chairman, my other concern with respect to the initial Bill 25 dealing with compensation was that there was no requirement that recommendations that came from the compensation review panel or the agency set up to do that would be adopted. It was simply in the nature of a recommendation. The minister can save me reading through the 14-page explanatory note and the 10-page note by telling me whether that's changed in the amendment package he's put in front of us for Bill 25. I don't know whether I'm being clear.

The Minister of Justice is frowning, so let me try to be a little clearer. There had been in Bill 25 a provision that in terms of the compensation vehicle . . .

MR. HAVELOCK: What are you referring to? Where?

MR. DICKSON: Well, Mr. Minister, if you look at page 15, changes to the Provincial Court Judges Act – I'm trying to find the section dealing with the process to fix compensation to Provincial Court judges and the compensation commission. It's, I think, section 32.93. This would be, I guess, the new section, so that would be on page 8, part 6.2, compensation commissions. The provision there is that all the compensation commission can do under the existing Bill 25 is not in fact fix it but simply make recommendations.

There has been a concern. What requirement is there that in fact the Lieutenant Governor in Council accepts the recommendations from the review commission? There has been a suggestion made – and this has been studied in other provinces – that in fact there should be either a high threshold that would have to be met before the provincial government could reject very revised recommendations from the compensation commission or in fact the compensation commission is given the power to fix the compensation. So my question is: has that changed, Minister of Justice, in the new package you've just put in front of us?

8:20

MR. HAVELOCK: No, it hasn't changed. In fact, Madam Chairman, if you go back to the Wickman decision, there was no requirement that the compensation commission recommendations be adopted by the Legislature or the government of the day. They were simply recommendations. However, the Wickman decision did state specifically also, in the event those recommendations were rejected, that the government would have to give reasons for doing so. So we have not made any changes to Bill 25, which basically makes the recommendations mandatory and having to be implemented by the government.

Chairman's Ruling
Relevance

THE DEPUTY CHAIRMAN: Hon. member, before you begin, the chair has allowed some leeway here, but we do have before us tonight an amendment. It's a lengthy amendment, but we have deemed it A1, and I'm wondering if we could focus back on that. I have allowed you some leeway with questions back and forth.

MR. DICKSON: Well, with respect, Madam Chairman, I tried to preface my comments and give it some context by saying that I haven't had time to read through the 10 pages of amendments, which have been marked A1, and the explanatory notes – and I always appreciate the minister coming forward with explanatory notes, but that's part of the package – that are 14 pages. That's 24 pages of detail. Now, there may be members that can absorb that a lot faster than I can. I'm just going to ask for your indulgence. I'm attempting to stick to the amendments and determine what's in the amendment package, but I'm going to have to ask the chair to allow some latitude.

I mean, the alternative is that we take the position that it simply is not reasonable to have an informed debate on this thing tonight and that maybe we move on and look at something else. This is a hugely important bill. It's a matter that strikes to the independence of the judiciary. There are few things more important than this, and frankly, it warrants a fuller discussion.

THE DEPUTY CHAIRMAN: The chair might recommend – there are a number of pages of amendments, and they go from section A to section X – that possibly, Minister of Justice, you may wish to give us a little overview of each and every section, or do you want to work it that way?

MR. HAVELOCK: Well, Madam Chairman, here's what I'd suggest. I will take into account that these changes were simply tabled this evening. What I'm quite prepared to do, if the House would be in agreement, is to adjourn debate on this for now, let the members opposite have some time to take a look at this, and we may or may not come back to this later this evening. I mean, that's fine with me.

However, what I would ask is that the hon. member spend the time going through this. I will even make members of my department available if you so desire, in fact the ADM, to sit down and go through the changes with you directly. Perhaps what we could do then is look at this after Easter, very early in the resumed session, and if these changes are acceptable, we can come to some agreement that we wouldn't spend an hour on each amendment.

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

MR. DICKSON: Yes, Madam Chairman. That's a perfectly reasonable proposition. I appreciate the co-operation of the Minister of Justice.

DR. TAYLOR: That's a sentence worse than death for his deputy.

MR. DICKSON: In any event, Madam Chairman, I'm happy to embrace the recommendation of the Minister of Justice.

MR. HAVELOCK: Madam Chairman, while it's a sentence worse than death for the deputy, he deserves it in this case.

Therefore, I'm quite happy to adjourn debate on Bill 25 at this time.

THE DEPUTY CHAIRMAN: Having heard the motion by the Government House Leader to adjourn debate on Bill 25, do you agree?

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed? Carried.

Bill 34
Municipal Government Amendment Act, 1998

THE DEPUTY CHAIRMAN: The hon. Member for Leduc?

The hon. Member for Edmonton-Manning.

MR. GIBBONS: Thank you, Madam Chairman. The hon. member is here right now, if he wants to start first.

THE DEPUTY CHAIRMAN: We have moved on to Bill 34, Municipal Government Amendment Act, 1998. Hon. Member for Leduc, do you wish to start debate?

MR. KLAPSTEIN: I responded to most questions that were raised earlier in my comments in second reading, so I'm prepared to listen for questions and keep track of them and try and answer them later on.

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

MR. GIBBONS: Yes, Madam Chairman. There are a few questions we want to ask right now, at this particular time in Committee of the Whole, and they're around a few different sections in here, one being section 58, the Canmore area. Part of the Three Sisters development in Canmore is built over an old mine site. The town of Canmore did not want development to proceed while still liable if something went wrong. This section would put into legislation, the act, that the town of Canmore is no longer liable for any problems which occur in the current parts of the Three Sisters resort. This in itself is not a problem. The main question is: who is liable for the problems that may occur?

We've had indication from the sponsor of the bill that the developer would be liable. However, it is not clear in section 58 that the developer will be 100 percent liable. Regulation 113/97 made it clear that the town of Canmore is not liable, but there does not appear to be a clear section stating who is in fact liable. The Liberal caucus would have serious concerns if taxpayers are liable for further problems on the development. We'd like a clear indication that the province is not liable before supporting this section. My question to the hon. Member for Leduc: why is there no clear section, like regulation 113/97, which puts the liability on the developer? Would the taxpayer be liable?

Madam Chairman, we have a few other questions, and they are around section 34. On that we have a few concerns, whether or not it has been changed to anything else. I did have notification as late as tonight, even after I sent lots of these copies out throughout the province and tried to get information back on this bill. The entirety of the bill is actually quite good, and I'm quite happy with most of it, except what I asked on section 58.

But I also am asking about section 34. I was asked by the president of the Canadian taxpayers association to ask a few questions around this. He represents owners of all sizes of property and has a long involvement with the government on ensuring that property tax legislation is balanced and fair. They are opposed to section 34 as it sits, and the main reason was that they were not consulted on this particular area. This seemed to be a last minute add-on as of last November, and it wasn't consulted with their actual area. The proposal, they're saying, is an overkill. The remedy causes more harm, this section, with its intentions, which encourages disclosure and exchange, taking away the person's right to appeal in most boards. The MGA or the ARB had the discretion to dismiss a complaint if a taxpayer had not disclosed requested information. If it were irrelevant, then the request could be timely or not timely, or if the information was even available, all considerations to the board would be weighed in such situations. Now you have an appeal, regardless of the fraction. If the taxpayer had not co-operated, he had to live with the consequence, with the discretion of a tribunal. Now this proposal strips the tribunal of any such considerations.

8:30

Also in this particular portion, section 295 on page 8 seems to be inconsistent. There's no relationship between the requested information and the loss of the right to appeal. What if the assessment is grossly in error and the requested information bears no relation to that of the error? You still cannot appeal. Ironically, the assessment does not even come out until well after the information would be requested. Is the appeal process then the only effective remedy, or is it checked on stated assessment and taxation power? In a unilateral act there must be some link between the information requested, the error in assessment, and the dismissal of an appeal.

It seems to be that what this also could lead to is open abuse. Otherwise, this section is open for significant abuse. Assessors are already asking for all income and expense statements of every company, like gas stations, that can record, et cetera. If a taxpayer refuses to give it, whether relevant or not, this section prevents any appeal potentially for the year because of the rights to adapt the assessment. Privatization of assessment services has already led to very aggressive action on the part of assessors. This will probably increase the cutthroat action or demands on the taxpayer. If I know that I can prevent an appeal by asking for the moon, why would I ask an assessor empowered with this section not to be asked for everything?

There is no check on the assessor's request. Would you like Revenue Canada to be able to request any information it considers necessary to assess your income or, if any is not potential, deny you the right to challenge whatever assessment overall they determine? The taxpayer would not stand for it. This is identical, from what I can see. The lack of consultation is fatal. Even

a partial failure to respond to assessors' requests for information is the right to appeal.

This matter really falls under section 484, which is on page 29. Then we can get into talk of previous remedies. To apply to the Queen's Bench did not work. It provided a taxpayer with the appropriate confidentiality matters to be addressed and the assessor's right to information; to stay to work is incorrect.

So some of these things are items we'd like to look at and are what we have some concerns on. At this present time, Madam Chairman, I'm going to sit down and listen to anybody else in my caucus that might have something to say.

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

MS BLAKEMAN: Thank you very much. I would like to speak specifically about clause 29 in the Committee of the Whole portion of Bill 34, the Municipal Government Amendment Act. This specifically was allowing that groups, as defined in the Agricultural Societies Act, or a community association, as defined in the regulations, would be allowed to be tax exempt for any property that is held by these groups or used primarily by these groups. I want to say that the community was really pleased with the process that resulted in this change or in this specific amendment in this act and wished me specifically to thank the Member for Calgary-Glenmore, I think, who chaired the nonprofit tax exemption review committee and also to specifically thank the minister for her co-operation in this and the sponsor of this particular Bill 34 for involving this.

Now, section 29 is referring quite a bit back to the regulations. I always have a concern when too many things are referred to regulation, so I'm hoping we will have an amendment coming forward that there would be a referral of any regulations to the Law and Regulations Committee, because I think it's important to review that. So I will be confining my comments to that specific clause and to the regulations that are affecting it.

The community groups that I consulted with were primarily nonprofit groups in Edmonton specifically, particularly those that worked with the city of Edmonton in their decision-making process. One was an advisory group to the city of Edmonton, and they question, if it's possible to get this answered, why the test is more severe for the multicultural or ethnocultural organizations in order to fulfill the definition that we see under section 29. It appears that the test is much more rigid for them. They have to go out of their way to demonstrate that their facility is open to the public by posting signage with hours of when it's open. That in fact can be a conflict if they do have a section of their facility that is licensed, because then there is a section that is not open to everyone, and I think, if I'm clear in understanding this, they should then not be posting signage about this. So there's been a conflict created there and a test that's much more severe for a very specific group of people that are covered under or are now allowed under the regulations, given section 29.

I note that the municipalities are given the right to override any of the exemptions that have been given here. That seemed satisfactory to everyone and I believe also allows for the community standards of a given geographic area in the province to come into play. If they felt that a group was not of significant benefit to that municipality, they could then exempt it. So there is enough flexibility that's been allowed through this, I think, to accommodate most people in Alberta. My support for that as well.

I do have a question about – sorry; there is one other section here that has to do with the liquor licences. I think it's section 32 – that's right – where it's talking about how property is not exempt if it has a liquor licence for it. I think this is going to turn out to be a fairly major problem for a number of groups who conduct additional fund-raising activities for their community group or nonprofit group, whether that be arts and cultural or a museum or a sports or recreation group or whatever, because they do make money from a concession, and often that concession includes a liquor beverage service. I think there is going to be a bigger issue coming through here. Perhaps it will get addressed through the regulations, but I'd be interested in hearing what is intended here.

Often the class C licences are essentially a club licence, a members only licence. In other places it's a lobby licence: anybody that's in that lobby or in that specific area. Well, for a place like the Citadel Theatre or the Winspear, that's an awfully big space. If they then have to pay taxes on that area that is deemed to be their lobby, that's going to significantly effect the benefit they would in fact be getting from their inclusions under section 29 and section 32. I don't think that was the committee's intent or the government's intent in getting into that, so I'm hoping that can be cleared up.

8:40

I think the recognition of the benefits that volunteer, sport/recreation, and arts and cultural groups give and the ability of those groups to apply for exemption from property taxes is a great thing and should take away some of the uncertainty.

One of the other questions that was repeatedly asked of me. I notice the regulations have now been extended to cover to the end of 1998, but is this going to go beyond that? Or have these groups and the committee done all of this work just for a one-year set of regulations? I would really like to get that answered both for my own peace of mind and certainly for the other groups that are involved in this, because nothing seems to indicate that this program is longer than one year, and I think that's critical.

I think the clauses in the regulations that apply to section 29 are certainly allowing the municipalities the flexibility and also the ability to deal with taking back property if it's either municipally owned in the first place and a nonprofit organization has been managing it or running the facility for the municipality, or in fact if the municipality takes it back for some reason, they're able to work out some sort of arrangement with the nonprofit that was managing it for them.

So those are the points and some of the questions I wanted to raise. Again, they're very specific to section 29, but we are in Committee of the Whole. I'm hoping that I will be able to get a response or some answers on those questions that have to do either with that section or with the regulations that are pertaining specifically to that section. I appreciate the opportunity to be able to bring forward that information and those questions this evening. I will now pass it on.

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

MR. GIBBONS: Yes, Madam Chairman. I'd just like to put a question forward to the hon. Member for Leduc on section 34: if he would concur with our discussion by adding in the last sentence that a complaint cannot be made in the current year regarding that assessment.

MR. KLAPSTEIN: Okay. I'll deal with section 34 first. I've had a discussion with the hon. member across the way, and adding "in the current year" I think would deal with the issue. I'm agreeable to that amendment taking place.

I'm just going to find my sheet here to talk about the other issue.

THE DEPUTY CHAIRMAN: Just so everyone in the Assembly knows, the table does not have any amendment before them at the present time.

MR. KLAPSTEIN: This is oral. We'll get you something in writing.

Chairman's Ruling
Amendments

THE DEPUTY CHAIRMAN: Just so everyone is aware, when an amendment comes forward, it has to be written out and it has to come before Parliamentary Counsel to ensure that the legality is fine, and we can proceed from there. We have no amendment before us at this time.

MR. KLAPSTEIN: Okay.

Debate Continued

MR. KLAPSTEIN: I will deal, then, with section 58, which I call the Canmore amendment, and I'll read a statement on it. Perhaps that will clarify it for members. In June of 1997 the province made a commitment to the town of Canmore to assist in managing development over certain undermined areas of the town. These areas were approved for development as a result of a 1992 Natural Resources Conservation Board decision. This commitment resulted in the passage of a regulation dealing with the undermining issues. The regulation specifically exempted the town from a duty to consider undermining issues when approving subdivision development applications and removed the town from the process of reviewing, approving, and attaching conditions in respect to the undermining review reports. The effect of the regulation was to shift responsibility for addressing undermining issues from the municipality to the developer. The amendment reflects the unique circumstance in the town of Canmore. The intent of the amendment is to reflect the principles of the regulation in legislation and to allow for the development of the subject lands.

I'll try and respond to the questions about the nonprofit items. Perhaps what I'll do is just reread a couple of paragraphs of my comments during second reading and see if that clarifies it.

> Any part of an exempt property that is licensed under the Gaming and Liquor Act would be taxable unless the licence is a class C or a special-event licence such as for a weekly bingo or a wedding in a community hall, allowing municipalities to make exemption of a facility owned by a nonprofit group conditional upon an agreement over any disposition of the property.

That's about all I can tell you at the moment. If you want more detailed information, I'd have to try and get it for you.

Madam Chairman, with regard to the amendment, the reason is that we just got a query within an hour or so before the session this evening, and we're trying to deal with that to alleviate some concerns. I'm prepared to see it go ahead the way it is. If we can't do the amendment right now, we'll deal with it in the future.

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

MS BLAKEMAN: Thank you. I would ask the hon. member if I could get the clarification on the record then, specifically around the liquor licences that cover what's commonly known as a lobby licence, for facilities that are arts and cultural, recreational or nonprofit sports organizations that in fact have a lobby licence. It's a very specific kind. They can sell liquor or concessions a half hour before a performance or an event and, I think, half an hour or an hour afterwards. That doesn't seem to be coming under the clarification that you just gave me. I have looked at your notes, and that's why I'm asking the question, because I don't see the clarification for it. So if I could impose on the hon. member to come back at some point, perhaps in third reading, with clarification on how it's intended that's to be handled. It would help clarify it in the minds of the organizations as well. I appreciate that.

THE DEPUTY CHAIRMAN: Are there any other speakers?

The hon. Member for Spruce Grove-Sturgeon-St. Albert.

MRS. SOETAERT: I think we're at a bit of an impasse with some points that needed clarification. My hon. colleague from Edmonton-Centre has asked a question. If that's unable to be answered, maybe we should . . . [interjection] But you can't make an amendment at third reading, so nothing can be changed at third reading. That's why I have a little concern that if this isn't clarified in Committee of the Whole, then it's down the tubes. So if it's possible to have more clarification on the lobby licence. If we're going to end up bringing this back, it'll be the Municipal Government Amendment Act once again. The original was great.

It seems that this is more stringent for multicultural groups. The test for them to qualify for this seems to be more stringent for multicultural groups. I'm wondering if that is really the way it is or if that's been a misunderstanding. I would appreciate some clarification. I would caution that you can't say: we'll bring it back at another time. Then it will be – well, that'll guarantee a fall session and another amendment to the MGA. [interjection] That means a fall session, so that might be okay.

This poor act has been amended probably more times than it was written, as the hon. chairman knows. She brought it forward many years ago. I had a thousand and one amendments then, and we see another bill in front of us amending. It's all well and good to say that we'll bring it back, but truly, why don't we do this right the first time? Or if you can give an explanation, that would truly be appreciated.

Thank you, Madam Chairman.

8:50

THE DEPUTY CHAIRMAN: Thank you, hon. member.

The hon. Member for Leduc.

MR. KLAPSTEIN: Okay. With regard to the lobby licence, if you tell me what class of licence it is, the information is as I gave it to you.

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

MS BLAKEMAN: Thank you. This is specific, I think, to section 30, which is talking about in respect of which a liquor licence is part of what's considered under the taxation. I know it's called a lobby licence; that's how it's referred to. I know in the regulations and perhaps under the specific sections it's also talking about a C licence, and special-events licences is another

one that's looped into those three. I'm sure the hon. member will bear with me, but I'm trying to get the specifics of this on record now so that there isn't confusion about this later.

We're dealing with both the amended sections in the bill that are also referring to regulations. Those regulations were in a draft form, so I'm attempting to get some solid clarification on this. I'm trying to find where it's listed in here. I'm giving it the wrong name. We all call it a lobby licence, but they call it something else.

The other section was section 32. All it's saying in 32 is "specifying liquor licences for the purposes of" the section, which again is not giving us a lot of information here.

This has become a circular presentation for me because I can't get enough information out of either the act or the regulations, and that's part of why I'm asking for the clarification. The hon. member's reference to having a special-event licence to have a wedding party in a community hall is not the same kind of liquor licence as a nonprofit organization would have commonly called a lobby licence, which is allowing for sale of liquor in their establishment for certain times around an event. Is that going to affect the taxable portion of their property? Are they going to end up having to pay taxes on the entire square footage of their lobby as a result of this? You can see where my concern is coming from. The confusion that is experienced by this member is also experienced by some of the groups that asked me to bring this forward. We can't seem to get a definitive answer on this. I realize that part of it's coming through the regulations, but the regulations are referred to in the act. Anything the member can do to help me out on this one I'd really appreciate.

Thank you.

MR. KLAPSTEIN: I guess I'll just make this one further comment. I'll repeat one section of it. If it requires a licence, it will depend on the type of licence that it requires as to whether or not it's going to pay tax. I can't tell you that on every situation. It'll have to be looked at as the application comes in. [interjections]

THE DEPUTY CHAIRMAN: Hon. members, the chair and table feel that there are some amendments that will be coming forward. However, they're not as yet before the table. Possibly we might consider adjourning debate on this and coming back to it when the hon. members have their amendments ready and before the table.

Would someone move accordingly?

MRS. SOETAERT: Thank you, Madam Chairman. I move that we adjourn debate on Bill 34.

THE DEPUTY CHAIRMAN: Are you agreed?

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed? Carried.

Bill 27
Electric Utilities Amendment Act, 1998

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Calder adjourned debate.

The hon. Member for Calgary-Buffalo.

MR. DICKSON: Thanks very much, Madam Chairman. I'm happy to rise and speak. I'll just remind members that we're speaking to an amendment which had been introduced by Edmonton-Calder. He prefaced his argument and submission around this by talking about it in terms of this being one of the most important amendments that could be put forward to help to ensure that Bill 27 does what not only the city of Calgary, the city of Edmonton, a lot of other interested parties would want to see but that it would set some conditions around the balance of the amendment act.

I'll just refer members – what's proposed here are amendments to section 6 of the existing Electrical Utilities Act. Section 6 sets out a lengthy purpose clause. A purpose clause is key in any bill. It's particularly essential in this bill because this is a very technical bill involving a number of reasonably sophisticated economic models and principles. It's important to have some overall architecture in terms of what's to be achieved.

The amendment would make some changes. If members look at Bill 27, and you look specifically at section 5 of the bill – this is on page 5 of Bill 27. At section 5 we are amending the purpose clause in the Electrical Utilities Act. That purpose clause is set out in section 6. The relevant parts that would be affected are firstly in section 6(a), which talks about one of the purposes of the act being

> to establish a framework that replaces the Electric Energy Marketing Act so that averaging of generation costs is phased out as regulated generating units are removed from regulated service and new arrangements are made so that . . .

Now, this is the part that would be changed, where it says:

> (i) the benefits of and responsibilities for costs associated with electricity produced by regulated generating units are shared by all consumers of electricity in Alberta.

Now, the proposal, just so we're clear – there aren't enough copies of the *Revised Statutes* for everybody to have one in front of them. But if we look at page 11 of the statute, section 6(a)(i), it would now be changed by striking out "of the benefits" and substituting "the full benefits." This actually takes the Minister of Energy at his word when he said that he wanted to ensure that the full benefits were going to be shared by all consumers of electricity. We now have the opportunity. This is a helpful amendment. I expect the Minister of Energy would be anxious to support this because, Madam Chairman . . . [interjections] We have no lack of energy in the House tonight, Madam Chairman.

9:00

What it would provide is this. It would now read, and this is one of the purposes, the initial purpose of the Electric Utilities Act:

> the full benefits of and responsibilities for costs associated with electricity produced by regulated generating units are shared by all consumers of electricity in Alberta.

This speaks to the very essential point raised by Atco, by Mr. Ron Southern, by the city of Calgary, by the city of Edmonton, by the Alberta Urban Municipalities Association. Many of those people are looking for this. Indeed, I have sat in the House and I've heard the Minister of Energy say that this is exactly what he wanted to achieve.

There's a principle in law that says if you're going to deal with a minister of the Crown or indeed anybody, representations they make don't count for anything unless they're in writing. It doesn't matter what the salesman tells you when you go to buy the car unless it's part of the contract. We can say the same principle applies in the statute. It doesn't matter what the minister says his intention is. If it's an important intention, it ought to be codified in the statute. The first part of this amendment does exactly that.

Now, the second part of the amendment is equally important.

This would add a new subclause after section 6(a)(ii). This would now add 6(a)(iii). The new provision would provide

> for decisions about the removal of existing generating units from regulated service that are in the interests of both the owners and consumers of electricity in Alberta.

So one may say: what difference does that make? How does that put us further ahead than we were before this amendment was introduced? It simply comes down to this: the existing purpose clause in section 6 doesn't address what the test is when existing generating units are removed from regulated service. That's the issue that we're about. It seems helpful and salutary that the Member for Edmonton-Calder would come forward and add that principle. That will help, Madam Chairman, to make this bill work for consumers.

Now, I'd like to invite the Minister of Energy to tell us whether he will support this amendment. I think he's had a chance to see the amendment before. I expect the minister will view this as a very friendly and positive amendment, because it simply puts in words the kinds of things he's been telling us the numerous times he's been subjected to the rigorous grilling by my colleague for Edmonton-Calder, a man who has been relentless in ensuring that the interests of consumers are always put first, that the public interest is always put first. So I'm hopeful the Minister of Energy will stand in his place and offer his considered response to the amendment that's been circulated.

Thanks very much, Madam Chairman.

THE DEPUTY CHAIRMAN: The hon. Minister of Energy.

DR. WEST: Yes. I appreciate his interest to have me respond to it, and I will, Madam Chairman.

The amendment introduced by the Member for Edmonton-Calder is unnecessary and even redundant at this point, and I'll point out the reasons for that. It's not needed because Bill 27 as it stands already ensures that the change from regulation to competition is fair to both the customers and the owners of existing regulated generation. Owners will receive a fair opportunity to recover the investments they've made in generating plants. Customers will receive the benefits of low-cost power from the existing plants and reduced costs from an efficient market of electricity. This, Madam Chairman, will be accomplished through Bill 27 and the power purchase contracts that will take effect in the years 2001 to 2020.

The use of the word "full" in the amendment suggested by the Member for Edmonton-Calder could be harmful to consumers since it could lead to arguments that consumers should be liable for stranded costs that occur beyond 2020. It amazes me that so many in here are willing to jump on the bandwagon for residual costs. They forget very well that if there are stranded costs and you call for a review or the term "full" in here, you're going to pass those on to the consumers also in a regulated system that you want to reregulate in the year 2020.

Setting a firm end to the contracts limits the risk faced by customers. Technological breakthroughs, possible environmental taxes on coal-fired generation, or uneconomic investments in life extension could all create stranded costs in the existing plants. If customers remain on the hook for those costs, the utilities would have something of a free ride. I think that utilities have done very well under a regulated system and under EEMA. I want to repeat that: the customers would remain on the hook following the year 2020 if you extended it through to the year 2040 and had a review. You would expose the customers of this province to something that you're actually saying you're going to protect them from. They would certainly have weaker incentives to minimize those costs – that's the utilities – so let's stick to a firm schedule, then, for these agreements in an atmosphere where everybody knows the rules.

I should add that the additional clause suggested by the member is similar to the clause in the 1995 Electric Utilities Act. It was removed in the amendment since this is exactly what Bill 27 accomplishes. It would be redundant to put it back into this bill. It is redundant because the power purchase agreements and the 20-year time frame are in the interests of both the owners and the consumers of electricity in the province of Alberta.

Twenty years is a sufficient planning horizon for the existing utilities. It gives them adequate time to prepare for a fully deregulated market and a fair opportunity to recover any stranded costs they might have. It gives the customers adequate time to recover the residual benefits. In this kind of market utilities must make efficient investment decisions in order to compete. That efficiency cuts costs and ensures that future electricity prices stay as low as possible.

These comments also apply to suggestions that the power purchase agreements should be reviewed in 2018, before their expiry date in 2020. That won't work either. The scheduling of the review 20 years from now would simply create uncertainty about the future climate for investment. New suppliers wouldn't know what they might be up against after 2020. In the face of the uncertainty they would certainly hesitate to invest.

Is it the intention of those recommending these types of amendments that we indeed just strengthen the existing utilities to ensure that no competitive market forces come in to compete with them? If that's the case and that's your wish, then indeed all you want is a regulated system with the window dressings that you've actually deregulated. I've thought for some time that that's what the hon. Member for Edmonton-Calder is suggesting. It's not in the interest of the consumer; it's in the interest of the utilities. That is why some are vehemently driving to have a review in 2018 and have these go out to 2040. It would serve them well.

Existing utilities wouldn't know what kind of revenue to expect from investment in the life extension of their plants. They would hold off on such investments. So those where the life of the plant has expired under the existing hedges wouldn't upgrade their plants to have those that were going to compete against them – the existing utilities wouldn't upgrade their plants, because what they would be doing is putting in a value, have them reassessed at 2018, and carry on for another 20 years under a regulated contract.

9:10

They would put their money in other parts of the world, and I might suggest that some of them right today that are vehemently demonstrating that they want extension are indeed doing that. They have put money into plants in Australia, in England, in Ontario. Where have they been making their major investments, and why are they wanting a review in 2018, an extension of contracts to 2040? Indeed, they're taking their money right today and investing in the Australian electrical generation business, in the British investment and in those places are only having 20-year contracts. Isn't it amazing that the people that want a 40-year contract here are getting 20-year contracts around the world? This uncertainty would impede a competitive market now and in the future. Customers would be the losers. That's not what this government is all about, and that's not what Bill 27 is about.

Customers are going to be the winners of this deregulation. We fully intend to make customers winners through competition. We have set a path for achieving this that is fair and orderly. That's

what Bill 27 accomplishes, and that's why the proposed amendment is redundant and unnecessary.

I would urge the members to reject the amendment so that we can get on with the important task of deregulating the energy industry.

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

MR. DICKSON: Madam Chairman, thank you and thanks to the minister for offering the explanation, although I want to assure him that he's going to have other opportunities this evening to get up and share some of his concerns with the bill.

I understand from his commentary – there are two parts to the amendment that's before the House right now. The first part, the notion of substituting the words "full benefits" in the purpose clause: I take it he doesn't have a problem with "full benefits." His concern is the next part, if it were to read: full responsibilities. His comment, as I understand it, is a concern for stranded costs. Who is going to assume responsibility for the stranded costs? As I understand it, the stranded costs would be if you have generating clients that haven't been able to recover their costs in a market environment. Now, I understand that's his concern. Reasonable men and women may differ, in terms of the wording, whether "full benefits" also means full benefits and full responsibilities. At least I understand where the minister is coming from.

DR. WEST: You're supporting big business wishes; that's what you're doing.

MR. DICKSON: Well, Madam Chairman, I'd certainly want to disassociate myself. I don't want to be seen as a shill for, necessarily, large power companies. That's an interesting observation that the Minister of Energy has made.

I didn't take from his comments an argument against the second part. He's made it clear in terms of his problem with the first part of the amendment, but if we look at the second part . . .

DR. WEST: The second part was covered too when I said it was redundant because it was already covered in the previous bill. So it's covered.

MR. DICKSON: Okay. Madam Chairman, just in case *Hansard* hasn't got it, what I understood the minister to say is that it's already covered, that it's superfluous, unnecessary because it's already dealt with in Bill 27.

Well, it's wonderful to hear. I'm delighted to hear that from the minister, because what that means is he should support including it in the purpose clause. Why? Because there are uninitiated . . .

DR. WEST: We've got enough lawyers looking at this. We don't need to double up.

MR. DICKSON: Madam Chairman, that's exactly the point. For those of us who haven't had the benefit of specialized training reading statutes . . .

THE DEPUTY CHAIRMAN: Carry on, Calgary-Buffalo. You do have the floor, and I would remind all members about that.

MR. DICKSON: Madam Chairman, there was a time when the current Minister of Energy was one of the proudest and strongest champions of plain language in this Legislature. I remember when that Minister of Energy used to talk about every piece of legislation being simple enough so that an Albertan could pick up a statute and without a lawyer at their left elbow and a lawyer at their right elbow have some sense in terms of what's happening. If you have a good purpose clause in the statute, it goes a long way to helping make a statute comprehensible to Albertans.

What the Member for Edmonton-Calder is urging on the government is something which clarifies what the Minister of Energy has confirmed happens in Bill 27. Why would we not take that principle, if it's in fact manifested in the provisions of Bill 27, and tuck it very neatly in as a new add-on as section (iii), the purpose clause, 6(a)(iii)?

AN HON. MEMBER: I'd do it.

MR. DICKSON: Well, you know there are many members who are nodding their heads saying: Edmonton-Calder is absolutely right; that makes sense. It makes the bill easier to understand, and in those rare cases when a court would have to interpret the statute in the event of a conflict, it would give some direction, some guidance to the court.

[Mr. Shariff in the chair]

So we're in this position. The Minister of Energy has offered an explanation, and members will have to determine on the (a) part of the amendment whether they're moved by his comments, but the (b) part of the amendment – the Minister of Energy has effectively said that he has no disagreement with the message and the thesis in that amendment. He just has some question in terms of whether it has to be put in the purpose clause. So we're not into anything very technical here, Mr. Chairman. It's just a question of why wouldn't we take that simple principle, put it in a place where you see it in section 6 – it's right at the front of the act. It helps to give some context. It's a useful tool for interpretation of the legislation and something that I think would be really helpful. It's just not good enough for the minister to say that it's already in there. It's only in there for somebody who's an expert in terms of dealing with energy regulation. It may be apparent to a lawyer, an economist, or an accountant or somebody who specializes in this area. It's not apparent to Joe and Jane Albertan, and the purpose clause would be.

I think that what the Member for Edmonton-Calder has done is put the amendment in language that people can understand, put it in a place where people immediately go to when they're trying to interpret a very complicated statute, and to top it all off, you've got the Minister of Energy who says he doesn't disagree with the thesis; he doesn't disagree with the essential purpose. We now really get into a question of whether this government is big enough to be prepared to accept an embellishment, add some value to Bill 27. It's offered by the Member for Edmonton-Calder free of charge, his engineering background and the entire research capability. The Alberta Liberal caucus has been put at the disposal of the Minister of Energy this evening, put at the disposal of all members, and I would think that people would want to take advantage of that. You're all paying for it, so it makes sense that members do take some advantage of it.

I know there are other members that want to participate in the debate tonight, Mr. Chairman, because the issue is of considerable moment and significance. I'm looking forward to their comments,

and I'm looking forward to the Minister of Energy reconsidering his position. He may have acted hastily, and on the (b) part it sounds to me like if he was to consider his position further, he might find there's no harm done. At best, it makes the statute easier for people to understand. At worst – Mr. Chairman, I'd just ask you what's the worst thing that happens if the (b) part of the amendment passes. The Minister of Energy effectively agrees with it. The worst that could be said is you have some words in the statute that may in effect convey a message which is similar to what's buried somewhere deep in the minutiae of the balance of the Electric Utilities Act.

So those are the comments that I wanted to make, Mr. Chairman. Thank you.

9:20

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

MR. SAPERS: Thanks, Mr. Chairman. The amendments put forward by my colleague from Edmonton-Calder make eminent sense and are very reasonable. Of course, they look all the more reasonable because we're dealing with a piece of legislation that is unreasonable. In fact, it's a piece of legislation that seems to be based more on blind ideology than on common sense.

This amendment would introduce some common sense back into the amending bill itself. The Minister of Energy in speaking against the amendment made reference to the 1995 Electric Utilities Act, and I believe he was making reference to section 6(a)(i), where it says:

> the benefits of and responsibilities for costs associated with electricity produced by regulated generating units are shared by all consumers of electricity in Alberta.

Now, he was saying that the intent of Bill 27 is really to deep-six that section, and in fact that section of the 1995 Electric Utilities Act was amended previously as we move along, trundle on down this road towards a totally deregulated market for the generation of electricity.

I'm a little bit confused by the minister's subsequent comments. I would have thought he would have gone ahead to say that you can't have a legislated guarantee that talks about who might be responsible if those benefits aren't forthcoming because of all of the other things he has said in terms of the support of an absolutely untethered free-market approach to absolutely everything in the world and, in particular, including the generation of electricity. But the minister didn't say that. He didn't go down that road at all, and I was a little bit confused.

Instead, he started talking about his particular view of the potential for stranded costs to accrue or residual benefits to accrue. If I understood his comments correctly, what he said is that it was just as likely there would be stranded costs, which then the consumer would have to pick up, as there might be residual benefits, which might actually add some coin back into the consumer's pocket. He made this observation as though it was something brand new.

But I make note of the speech the minister made to the Calgary Chamber of Commerce on September 22, 1997, and I'll quote from a transcript of that speech where the minister says:

> In Alberta we have some plants with stranded costs and others with residual value. Stakeholders have agreed that those stranded costs should be recovered from customers. As we deregulate, we must take into account the residual value of any plant that we deregulate. This is imperative. And I'll be blunt. All residual value must be returned to the Alberta consumer, who not only paid for it, but who ensured the rate of return for its owners. This government will take whatever steps are needed to ensure this happens.

So back in September of 1997 the minister was already alerting people that there would be some plants with stranded costs and others with residual value. He was also saying that the government was coming down clearly on the side of ensuring that the benefit of residual value accrued to consumers. I find that the minister's interventions in speaking to this amendment are somewhat contradictory to the comments he made to the Calgary Chamber of Commerce.

Later on in the minister's comments this evening he also talked about how a 20-year planning horizon is fair and equitable for the industry. He in particular made the point that this would allow utilities to deal with the issue of stranded costs. In fact, I think he made the suggestion that they would be able to plan their way through the whole issue.

Now, if stranded costs are already covered by the 20-year time line that's contemplated in the government's bill, Bill 27, then what does the minister have to be afraid of from this amendment? It seems to me that the minister is trying to have it both ways, that what he's saying is, "We can't pass this amendment because of the bogeyman of stranded costs," but in the very next breath he says, "The 20-year time line is enough for those utilities to take care of the issue of stranded costs." So my very simple question to the Minister of Energy is: which is it? I know that the Minister of Energy wouldn't go both ways on this issue.

Mr. Chairman, the consumers may be exposed by what Bill 27 would accomplish. Consumers may end up having to pay a very dear price, and that would come in the form of increased utility rates or lower reductions that otherwise might take place, and that would be very unfair. So in this particular argument my suggestion would be that the tie doesn't go to the runner, that the benefits should accrue to the consumer.

If the minister is correct in his assertion that the utilities will have enough time to deal with their own issue of stranded costs and if that's already taken care of, then why not do everything in our power to ensure that consumers can't be negatively impacted? What we have is an opportunity to move in that direction by quickly approving this amendment. Because what this amendment says is: don't be confused between stranded costs and residual value; bank on the fact that there will be residual value, and ensure that that residual value accrues to the consumers in a way that's predictable.

I would agree with the minister when he says, "This is imperative." Those were his words when he spoke to the Calgary Chamber of Commerce on September 22, 1997. I wonder what it is that's changed the Minister of Energy's mind since then, because it appears as though his mind has changed.

Now, I'm not going to stand here and pretend that I have any special insight into the inner workings of the mind of the Minister of Energy. In fact, I don't particularly want to pursue even the visual image of getting inside the head of the Minister of Energy. But I will say this: the Minister of Energy has been trying to sell this bill as though he can say without equivocation that it will only accomplish good things. But we know from the documents that have been tabled in this Assembly, we know because of the shallowness of the arguments in defence of Bill 27 as it was first drafted, and we know because of previous comments the minister had made that there is no such certainty in this bill.

Now, this amendment is not a perfect remedy to that lack of certainty, and this amendment does not help us appreciate any further the inner workings of the mind of the Minister of Energy. What this amendment does is give some peace of mind to the

taxpayers and the consumers of this province, and it also sends a clear message that the government, for a change, is clearly on the side of the ordinary consumer, taxpayer, individual citizen in this province and not on the side of the wealthy, the rich, the powerful, the well connected, and the corporate giants.

So I would hope that the Minister of Energy would take a sober second look at this amendment, that he will take a very deep, cleansing breath, close his eyes, keep an open mind, and then come back into the House and urge his colleagues to support this amendment as put forward by my colleague from Edmonton-Calder, because it would be the right thing to do and would help us ensure that Bill 27 poses less of a danger to the consumers of this province.

Thank you.

9:30

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

MR. MacDONALD: Thank you, Mr. Chairman. I rise this evening to speak in support of this amendment that has been proposed by the hon. Member for Edmonton-Calder. I listened with interest to the comments from the previous two speakers, and I'm in full agreement that this amendment will not only give the consumers, the residential homeowners and the apartment dwellers of this city confidence in this bill but will also give all users, all consumers of electricity in this province confidence in this bill. The idea is very notable: of "full benefits." We look at full benefits and what we have contributed to the development of the power grid in this province, and it startles me that this was not considered further by the creators of this legislation: the idea that as we go further on here in the amendment about decisions adding into this legislation specific directions about decisions that are to be made for "the removal of . . . generating units from regulated service."

Earlier today in the House, Mr. Chairman, I heard the Minister of Energy speak about the schedule at the back of this bill. I believe it was during question period today we talked about the schedule at the back here, and there seemed to be some concern that this was not looked at by hon. members of this House. I believe we spoke about this last night: the generating capacity and the ages and the base life. I was led to believe that the base life of these generating facilities could be extended and could be extended in the main body of this legislation. I believe section 72 makes direct reference to the extension of the life, but in this amendment my hon. colleague brings this out specifically.

When you think of everyone who has had a stake in the developing, in the financing of so much of the generating capacity that's west of the city, the coal-fired power plants that this amendment has proposed, I cannot understand how any hon. member in this House could not stand up and say yes to this amendment and just contemplate why the original drafters of this legislation had not thought of covering the consumers' interests in this manner. We have to be very, very careful and respectful – again I cannot emphasize this enough – about the consumers of this province, because they are the ones who in the end will be paying off the mortgage, so to speak, on these generating facilities.

Now, Mr. Chairman, if we are to remove these generating units from regulated service and these are in the interests of both the owners and consumers of electricity in Alberta, you would think it should be done in an orderly way. The mechanical auditing of these generating facilities: we must consider this. With so many changes that are going on in this province – and we briefly struck on this last night, and we talked a little bit about it. That's about the complete overhaul of these generating facilities and the addition to their base lives as a result. It is worth noting that in this day and age this can be done rather quickly. It must also benefit the consumers, not only the big corporations that are going to be controlling this generating capacity, but it also must benefit the consumers.

It was noteworthy to read in the paper today that some consumers of electricity in this province are receiving a $25 rebate. This is perhaps the start of something that is worth while for the consumers. It would be interesting to see the comments of the hon. Member for Edmonton-Calder, what he would have to say about the $25. We didn't discuss it in caucus today; the rebate cheque was not discussed. I don't know whether it's going to be actually a cheque or a credit on your next utility bill.

Whenever we look at the purposes of this act on electric utilities and the changes that are proposed here, Mr. Chairman, the changes are noteworthy. When we think of the whole plan, we must think of the amendments that have been put forward here. There are only two groups in this – all hon. members are aware of this – and those are the owners, the manufacturers shall we say, and the consumers of electricity in Alberta. All these decisions, not only every section, every regulation but every amendment to this act, come back to either the owners or the consumers. When we look at the owners, we have to consider the capital that they're going to invest. Now that we're going to make all these changes, who's going to put up the money? Who's going to pay for the electricity, and who's going to pay off these plants?

Now, I have to get back to question period today and this idea of residual value that was talked about and the establishment of the 20-year effective term – I understand that this will be over on the 31st of December in the year 2020 – on the power purchase contracts under Bill 27. Through the activities of the independent assessment teams, with this bill and with the exception of this amendment, the government has potentially placed Alberta consumers of electricity, particularly residential consumers, Mr. Chairman, in a situation in which they may not recapture the full value of the residual benefit with the risk that they have incurred through their utility bills in a regulated environment for the construction of these existing units.

The construction of the Genesee plant is a fine example of this, Mr. Chairman. Now, they're going to also construct another identical plant with the same capacity to generate electricity, the same coal-fired system. It was going to be cheaper than the first. It was going to be the same, and naturally construction costs would be lower as a result of that. But it was not built. It was not built, and we have to consider that.

Under this amendment the residual value flowing from the deregulation of these existing generating units after this cut-off date of December 31, 2020, will flow exclusively into the pockets of shareholders of the generating units, not the consumers. So this is going to the owners, not the consumers, as we're talking about in section 6(a)(iii). Rather than in the hands of the customers – this is not going in the form of lower utility bills – the full benefit of this will go directly to the shareholders. Without this amendment the customers will not see the full impact of this until well beyond that. It may be too late. People may be scratching their heads and saying: "Oh, my gosh, I wish my hon. member had spoken up 25 years ago. Look at what we've got now. Why didn't someone think of this?" That's why I would encourage all hon. members in this Assembly to vote for this amendment. It

has merit and it has purpose, and it certainly enhances this rather large, extensive piece of legislation, Mr. Chairman.

9:40

I agree that it is fair that the generating unit owners receive a rate of return on their investment capital in these plants and receive some of the benefits if they increase the efficiencies of the plants. There's nothing the matter with this. However, I do not believe that the owner should receive windfall profits at the expense of Alberta consumers. That, Mr. Chairman, is totally unfair. It is only fair that Alberta consumers – and these are the householders that are referred to specifically in this section (iii) – recover full benefits under a deregulated environment after the year 2020. Because it's under this regulated environment that they paid through their utility bills for the capital operating maintenance and rate of return for existing generation units built over the years.

Now, after all this is built, there's a lot of repair to be done. They're also paying for the repair. The consumers are paying for the maintenance and the repair of those facilities through higher electricity bills. Under this amendment it is conceivable, Mr. Chairman, that the owners and the consumers of electricity, over the 20-year power purchase contracts that are used to transfer the residual benefits from generators to customers, may not even cover the time frame of the accounting life of a number of existing generating units. This is referred to in the schedule that the hon. minister spoke about in question period today. We're looking at Keephills 1 and 2, I believe, that may not be around. There is Genesee and Sheerness.

From my rough calculations here, the hon. Minister of Energy has over 60 facilities. With the exception of the year 2019 – and these are some that are owned by TransAlta Utilities – the majority of these are going to have no base life. There's going to be no life left in them. And there's going to be no life like it. But there are very few of these that are going to make it to the year 2020 unless we can extend their base life.

Last night we spoke about all the construction. We can call for purchase orders from anywhere in this world for components to build a power plant. These parts can be made offshore and shipped here and assembled here. Final assembly can be made out west of town. In section 72 of this bill there is an indication that we can increase the base life and therefore protect the investment that the residential customers not only of this city but of the entire province have made in electrical generating facilities.

This is quite a schedule back here whenever we look at it. The base life is mentioned here, but there's no rating in kilowatts. There is in part 2 of the isolated regulating generating units. I would like to talk about that, but not while I'm speaking about this amendment. Hopefully I'm going to get an opportunity later to speak about this further in detail.

In regards to this amendment and the idea from my hon. colleague from Edmonton-Calder about decisions that are going to be in the interest of both the owners and the consumers, the owners of the power plants and the consumers of the electricity, the potential life expectancy and/or the value of the site and infrastructure of these existing generating units, with the advance of technology – not only with the advance of technology but, as I mentioned before, the advance in construction technologies – could extend far beyond what is talked about in these schedules because of what I have just said here. This can go on beyond 2020 and result in significant future benefits for shareholders. The benefits are going to go to the shareholders, as I said before, not to the customers who have in the past paid for this.

Life expectancies of similar units in the United States are in the order of 40 to 50 years or longer. Now, I don't know about the quality of coal in America. Perhaps it's superior to what we're burning out here. Perhaps it's not as good. I don't know. But the sulphur content of the coal is certainly, in my view, going to affect the life expectancy of a power plant. It's certainly going to do that. Maybe the hon. minister, who knows more about this than I do, could explain to all members of this House in due time how the life expectancy of a coal-fired plant works, but we shall see.

The latest estimates suggest, Mr. Chairman, that Keephills, which is operated by TransAlta Utilities, could have a life extension period through to 2035, and this amendment protects the interests of both the consumers and the owners of this power plant. I have no doubt about that, and I congratulate the hon. member for bringing it forward, because if we have a life extension period through to 2035, Genesee out here, owned by EPCOR, could have a life extension for another 42 or 44 years, and Sheerness could have a life extension period through to 2041. That's a long time away, and the customers have paid for it. Then suddenly for half its life it's going to have no more return to the customers.

With those comments on this amendment to Bill 27, Mr. Chairman, I would like to adjourn debate, please. Thank you.

THE ACTING CHAIRMAN: The hon. Member for Edmonton-Gold Bar has moved that we adjourn debate on Bill 27. All those in favour, please say aye.

SOME HON. MEMBERS: Aye.

THE ACTING CHAIRMAN: Opposed, please say no.

SOME HON. MEMBERS: No.

THE ACTING CHAIRMAN: Carried.

Bill 34
Municipal Government Amendment Act, 1998

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

MR. GIBBONS: Thank you, Mr. Chairman. I'd like to move notice of an amendment to Bill 34, Municipal Government Amendment Act, 1998. I move that Bill 34 be amended in section 16 in the proposed section 295(4) by adding "in the current year" after "No person may make a complaint."

Thank you, Mr. Chairman.

MR. KLAPSTEIN: I will speak in support of the amendment.

THE ACTING CHAIRMAN: The hon. Member for Edmonton-Manning has moved an amendment to Bill 34, Municipal Government Amendment Act, 1998, which is amendment A1.

[Motion on amendment A1 carried]

9:50

MR. KLAPSTEIN: Mr. Chairman, I'd like to respond to a couple of questions that were asked earlier in regard to Bill 34.

Ethnocultural organizations will be exempt if they meet the criteria of being open to the public. If they are not open to the

public, they will be deemed to be a private club and will not qualify for exemption. I have consulted with Municipal Affairs staff, and they inform me that a lobby licence would be considered as a special event license, a class C, and would be exempt for nonprofit organizations. Also, the regulations for nonprofit organizations will be extended beyond 1998.

I hope that answers the questions that were asked of me.

[Mrs. Gordon in the chair]

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

MS BLAKEMAN: Yes, that does answer my questions. Thank you very much to the hon. member for having made such a prompt reply to my questions. It's very nice to get those clarifications on the record, and I'm sure it will be much appreciated by the groups as well.

Once again, my compliments to the sponsor of the bill, the minister, and the Member for Calgary-Glenmore for the excellent work they did on behalf of the community. I really appreciate it.

[The clauses of Bill 34 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.

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

[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 the following with some amendments: Bill Pr. 3 and Bill 34. The committee reports progress on the following: Bill 25 and Bill 27. 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? So ordered.

[At 9:55 p.m. the Assembly adjourned to Thursday at 1:30 p.m.]